

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

FORM EXEMPT UNDER 44 U.S.C. 3512

DO NOT WRITE IN THIS SPACE

Case
12-CA-165813

Date Filed
12/10/15

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer

Gopher Resource Corporation

b. Tel. No. 813 744 5086

c. Cell No.

f. Fax No.

g. e-Mail

h. Number of workers employed

d. Address (Street, city, state, and ZIP code)

6505 Jewell Avenue
Tampa, FL 33619

e. Employer Representative

i. Type of Establishment (factory, mine, wholesaler, etc.)

Factory

j. Identify principal product or service

Recycling

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

Employer requested that the Charging Party (b) (6), (b) (7)(C) spy on workers who were trying to for a labor union. The Plant is in Tampa, Florida. Two of the employers representatives, including an attorney and a senior level manager, who came down from Minnesota, asked (b) (6), (b) (7)(C) to keep an eye on the employees and to spy on their union-organizing activities. (b) (6), (b) (7)(C) refused to spy, and indicated (b) (6), (b) (7)(C) refusal and discomfort with spying. On (b) (6), (b) (7)(C) 2015, (b) (6), (b) (7)(C) was terminated for taking unauthorized 'overtime.' This termination, however, was really reprisal for refusing to spy on workers.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

(b) (6), (b) (7)(C)

4a. Address (Street and number, city, state, and ZIP code)

(b) (6), (b) (7)(C)

4b. Tel. No. (b) (6), (b) (7)(C)

4c. Cell No.

4d. Fax No.

4e. e-Mail

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By 
(Signature of representative or person making charge)

Roderick O. Ford, Labor Attorney

(Print type name and title or office, if any)

Tel. No. 813 22301200

Office, if any, Cell No.

Fax No. 800 792-2241

e-Mail
laboradvocate@fordlawfirm.org

Address 220 E. Madison Street, Suite 1205, Tampa, FL 33602

12/10/2015

(date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in remedying unfair labor practices and related unfairness or inequities. The routine uses for the information are fully set forth in



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 12
201 E Kennedy Blvd Ste 530
Tampa, FL 33602-5824

Agency Website:
www.nlr.gov
Telephone: (813)228-2641
Fax: (813)228-2874



Download
NLRB
Mobile App

December 11, 2015

(b) (6), (b) (7)(C)

Re: Gopher Resource Corporation
Case 12-CA-165813

Dear (b) (6), (b) (7)(C):

The charge that you filed in this case on December 10, 2015 has been docketed as case number 12-CA-165813. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney DALLAS MANUEL whose telephone number is (813)228-2669. If this Board agent is not available, you may contact Supervisory Examiner DENISE C. MORRISON whose telephone number is (813)228-2455.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or at the Regional office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Procedures: We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website www.nlr.gov. However, the Agency will

continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website www.nlrb.gov or from the Regional Office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Margaret J. Diaz". The signature is written in a cursive, flowing style.

Margaret J. Diaz
Regional Director

i.t.

cc:

Roderick O. Ford, Esq.
The Law Offices of Roderick O. Ford PLLC
220 E. Madison Street, Suite 1205
Tampa, FL 33602-4827



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 12
201 E Kennedy Blvd Ste 530
Tampa, FL 33602-5824

Agency Website:
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Fax: (813)228-2874



Download
NLRB
Mobile App

December 11, 2015

Gopher Resource Corporation
6505 Jewel Ave
Tampa, FL 33619-2903

Re: Gopher Resource Corporation
Case 12-CA-165813

Dear Sir or Madam:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney DALLAS MANUEL whose telephone number is (813)228-2669. If this Board agent is not available, you may contact Supervisory Examiner DENISE C. MORRISON whose telephone number is (813)228-2455.

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If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

Procedures: We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website, www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Margaret J. Diaz". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

Margaret J. Diaz
Regional Director

i.t.

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

Revised 3/21/2011

NATIONAL LABOR RELATIONS BOARD

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

Gopher Resource Corporation

CASE NUMBER

12-CA-165813

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)**2. TYPE OF ENTITY**

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE
☐ PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF
INCORPORATION
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL
RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS**5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR****6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).****7. A. PRINCIPAL LOCATION:****B. BRANCH LOCATIONS:****8. NUMBER OF PEOPLE PRESENTLY EMPLOYED**

A. Total:

B. At the address involved in this matter:

9. DURING THE MOST RECENT (Check appropriate box): ☐ CALENDAR YR ☐ 12 MONTHS or ☐ FISCAL YR (FY dates)

YES	NO
-----	----

A. Did you **provide services** valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value. \$

B. If you answered no to 9A, did you **provide services** valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$

C. If you answered no to 9A and 9B, did you **provide services** valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$

D. Did you **sell goods** valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$

E. If you answered no to 9D, did you **sell goods** valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$

F. Did you **purchase and receive goods** valued in excess of \$50,000 from directly outside your

State? If less than \$50,000, indicate amount. \$ _____					
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____					
H. Gross Revenues from all sales or performance of services (<i>Check the largest amount</i>): <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input type="checkbox"/> \$1,000,000 or more If less than \$100,000, indicate amount.					
I. Did you begin operations within the last 12 months? If yes, specify date: _____					
10 ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?					
<input type="checkbox"/> YES <input type="checkbox"/> NO (<i>If yes, name and address of association or group</i>).					
11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS					
NAME		TITLE		E-MAIL ADDRESS	
TEL. NUMBER					
12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE					
NAME AND TITLE (<i>Type or Print</i>)		SIGNATURE		E-MAIL ADDRESS	
DATE					
PRIVACY ACT STATEMENT					
Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.					

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

GOPHER RESOURCE CORPORATION

Charged Party

and

(b) (6), (b) (7)(C)

Charging Party

Case 12-CA-165813

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on December 11, 2015, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

Gopher Resource Corporation
6505 Jewel Ave
Tampa, FL 33619-2903

December 11, 2015

Date

Ida Thomas, Designated Agent of NLRB

Name

/s/ Ida Thomas

Signature

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

(b) (6), (b) (7)(C)

and

Gopher Resource Corporation

CASE 12-CA-165813

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____

Gopher Resource Corporation

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☒ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Richard W. Pins/Matthew Tews

MAILING ADDRESS: 150 South 5th Street, Suite 2300, Minneapolis, MN 55402

E-MAIL ADDRESS: richard.pins@stinson.com/matthew.tews@stinson.com

OFFICE TELEPHONE NUMBER: 612-335-7007/612-335-1520

CELL PHONE NUMBER: 612-965-1805 (Richard Pins) FAX: 612-335-1657

SIGNATURE: _____

DATE: 12/14/15

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

From: [Manuel, Dallas](#)
To: [Roderick O. Ford](#)
Subject: RE: Final Request for CP's Evidence: Gopher Resource Corporation, Case 12-CA-165813 (b) (6), (b) (7)(C))
Date: Wednesday, January 20, 2016 11:16:10 AM

Mr. Ford,

My delayed response to you is due to my unexpected assignment, yesterday, of a day-long affidavit in a complex and unrelated case. In follow-up to your request for another agent whose schedule may better meet your need, regional management has arranged for Attorney Rafael Aybar, of the Tampa Regional Office, to meet with you and (b) (6), (b) (7)(C)) at 9 a.m. on tomorrow, Thursday, 1/21/2016. By reply email, please confirm this appointment.

In advance of tomorrow's meeting, please upload all relevant and previously requested documents for (b) (6), (b) (7)(C))' case into our online case-management system (see instructions in e-signature below). Our office address is set forth below. Upon your arrival to the office, ask for Attorney Rafael Aybar.

Dallas Manuel

Dallas Manuel | Attorney

National Labor Relations Board, Region 12

Fifth Third Bank Bldg.

201 E. Kennedy Blvd., Suite #530

Tampa, Florida 33602-5824

voice 813.228.2669; fax 813.228.2874 | www.nlr.gov



Go Green! Do not print this email unless it's necessary!

E-File:

The NLRB has converted to an electronic file system.

The NLRB strongly encourages all parties to file electronically, through our online E-File system, all substantive documents presented to the Agency; a link to access our E-File system is here:

<https://apps.nlr.gov/eservice/efileterm.aspx>. To file new charges or petitions, use this link: <https://apps.nlr.gov/eservice/efileterm.aspx?app=chargeandpetition>

Upon successful filing, by email, you will receive a confirmation number and notice.

From: Roderick O. Ford [mailto:laboradvocate@fordlawfirm.org]
Sent: Friday, January 15, 2016 2:02 PM
To: Manuel, Dallas <Dallas.Manuel@nlrb.gov>
Subject: RE: Final Request for CP's Evidence: Gopher Resource Corporation, Case 12-CA-165813 (b) (6), (b) (7)(C))

Great!

Thanks,

Roderick O. Ford
Attorney-At-Law
RODERICK O FORD PLLC
220 E. Madison Street
Suite 1205
Tampa, Florida 33602
(800) 792-2241 -- facsimile
(813) 223-1200 -- Tampa
(727) 755-0958 -- St. Petersburg
(407) 218-6549 -- Orlando
www.fordlawfirm.org

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----- Original Message -----

Subject: RE: Final Request for CP's Evidence: Gopher Resource Corporation, Case 12-CA-165813 ((b) (6), (b) (7)(C))
From: "Manuel, Dallas" <Dallas.Manuel@nrlb.gov>
Date: Fri, January 15, 2016 1:56 pm
To: "Roderick O. Ford" <laboradvocate@fordlawfirm.org>

I will check with regional management to assess whether another agent may be able to meet at either of your requested times. I will follow-up with you, hopefully, today.

Dallas Manuel

dallas.manuel@nrlb.gov

Senior Field Attorney
NLRB, Region 12/Tampa
voice 813.228.2669
fax 813.228.2874

From: Roderick O. Ford [<mailto:laboradvocate@fordlawfirm.org>]
Sent: Friday, January 15, 2016 12:53 PM
To: Manuel, Dallas <Dallas.Manuel@nrlb.gov>
Subject: RE: Final Request for CP's Evidence: Gopher Resource Corporation, Case 12-CA-

165813 (b) (6), (b) (7)(C)

Unfortunately, no....

Do you want me to dismiss and refile the charge? (Assuming that we are still within the 6 month window)

Roderick O. Ford
Attorney-At-Law
RODERICK O FORD PLLC
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Suite 1205
Tampa, Florida 33602
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----- Original Message -----

Subject: RE: Final Request for CP's Evidence: Gopher Resource Corporation, Case 12-CA-165813 (b) (6), (b) (7)(C)
From: "Manuel, Dallas" <Dallas.Manuel@nlrb.gov>
Date: Fri, January 15, 2016 12:04 pm
To: "Roderick O. Ford" <laboradvocate@fordlawfirm.org>

The Regional Director will ask, so I pose to you the following question –

Is there possibly someone else in your firm who could participate at the time that I suggested, in your absence?

Dallas Manuel

dallas.manuel@nrlb.gov

Senior Field Attorney
NLRB, Region 12/Tampa
voice 813.228.2669
fax 813.228.2874

From: Roderick O. Ford [<mailto:laboradvocate@fordlawfirm.org>]

Sent: Friday, January 15, 2016 12:01 PM

To: Manuel, Dallas <Dallas.Manuel@nrlb.gov>

Subject: RE: Final Request for CP's Evidence: Gopher Resource Corporation, Case 12-CA-165813 (b) (6), (b) (7)(C))

Unfortunately, that time will not work for my schedule.

Roderick O. Ford
Attorney-At-Law
RODERICK O FORD PLLC
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Suite 1205
Tampa, Florida 33602
(800) 792-2241 -- facsimile
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----- Original Message -----

Subject: RE: Final Request for CP's Evidence: Gopher Resource

Corporation, Case 12-CA-165813 (b) (6), (b) (7)(C))
From: "Manuel, Dallas" <Dallas.Manuel@nlrb.gov>
Date: Fri, January 15, 2016 7:36 am
To: "Roderick O. Ford" <laboradvocate@fordlawfirm.org>

Good morning,

As you have not provided written authorization for me to communicate directly with the Charging Party, I have deleted (b) (6), (b) (7)(C) from this response.

I am not available for an affidavit at either of the suggested times. However, I can adjust my schedule to meet at 4 pm on Thursday, January 21st. Keep in mind that a Board affidavit of an alleged discriminatee typically requires about four (4) hours to complete. Please confirm if that alternate meeting time is acceptable.

Thanks.

Dallas Manuel

dallas.manuel@nlrb.gov

Senior Field Attorney
NLRB, Region 12/Tampa
voice 813.228.2669
fax 813.228.2874

From: Roderick O. Ford [mailto:laboradvocate@fordlawfirm.org]
Sent: Thursday, January 14, 2016 4:13 PM
To: Manuel, Dallas <Dallas.Manuel@nlrb.gov>
Cc: (b) (6), (b) (7)(C) >
Subject: RE: Final Request for CP's Evidence: Gopher Resource Corporation, Case 12-CA-165813 (b) (6), (b) (7)(C))

Mr. Manuel:

I just spoke to (b) (6), (b) (7)(C)

We can meet on Thursday, January 21, 2016 @ 9:00 a.m.; or Friday, January 22, 2016 @ 9:00 a.m., or another time on that same date.

Thank you,

Roderick O. Ford
Attorney For (b) (6), (b) (7)(C)

Roderick O. Ford
Attorney-At-Law
RODERICK O FORD PLLC
220 E. Madison Street

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Tampa, Florida 33602
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(407) 218-6549 -- Orlando
www.fordlawfirm.org

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----- Original Message -----

Subject: Final Request for CP's Evidence: Gopher
Resource Corporation,
Case 12-CA-165813 ((b) (6), (b) (7)(C))
From: "Manuel, Dallas" <Dallas.Manuel@nlrb.gov>
Date: Thu, January 14, 2016 3:32 pm
To: "Roderick O. Ford"
<laboradvocate@fordlawfirm.org>

Mr. Ford,

This office has made several attempts to contact you to arrange for the presentation of the Charging Party's evidence in this matter, and to date, we have not received any evidence on behalf of your client, nor have you scheduled an appointment to meet with me at which time I would take your client's sworn affidavit. Please note that this Agency's time goal for completing an entire investigation of this type is **7 weeks. The Region is currently considering dismissing this case for lack of cooperation.** Please note that dismissing a

charge containing the allegation that your client was discharged on (b) (6), (b) (7)(C) 2015 would in all likelihood preclude your client from re-filing and pursuing the charge due to Section 10(b) of the Act. Section 10(b) prohibits this Agency from pursuing unfair labor practice charges that occurred more than 6 months prior to the filing and serving of a charge.

If you are personally experiencing scheduling difficulties, you may wish to give me written permission to contact your client directly to arrange for the presentation of the Charging Party's evidence at a time convenient to (b) (6), (b) (7)(C). The failure of you or your client to make an appointment to give a sworn affidavit can have very unfortunate consequences, as described above. I explained our dismissal process in a previous communication, but if you have questions about that, please feel free to call me.

Please respond immediately. As noted above, we will have no choice but to dismiss this case based on your lack of cooperation if your client does not meet with us for a sworn affidavit very soon.

Dallas Manuel

dallas.manuel@nlrb.gov

Senior Field Attorney
NLRB, Region 12/Tampa
voice 813.228.2669
fax 813.228.2874

From: Manuel, Dallas

Sent: Monday, January 04, 2016 2:07 PM

To: Roderick O. Ford <laboradvocate@fordlawfirm.org>

Subject: Renewed Request for CP's Evidence: Gopher Resource Corporation, Case 12-CA-165813 (b) (6), (b) (7)(C))

Mr. Ford,

As of today, 1/4/2016, I have not received from you the courtesy of a substantive response to my below inquiries by which I have attempted to gather the Charging Party's evidence, since December 15, 2015. The evidence submission deadline of 12/24/2015, for presentation of the Charging Party's evidence, has expired without any request from you for an extension.

In lieu of recommending immediate dismissal of this case for the Charging Party's failure to timely cooperate in the investigation, this email is to notify you that it is imperative that my office receive all of the Charging Party's evidence (all testimony and documents) by not later than Friday, January 8, 2016, a date just shy of one-month since you filed the charge.

Options If You or Your Client Are Unable to Timely Cooperate:

Withdrawal - In the event that you or your client are unable to submit your evidence to the Region, as requested above, then the Region may dismiss the charge for your lack of timely cooperation in its investigation. In lieu of dismissal, you may convey a request to withdraw the charge. However, should you elect to withdraw the charge, please note that the Region will be unable to remedy a later-filed charge if the allegation(s) occurred more than six-months prior to the refiling and service date, per Section 10(b) of the Act. In this case, it appears that re-filing a later charge would be futile given that (b) (6), (b) (7)(C)' discharge occurred more than six-months ago and the other related allegations preceded (b) (6), (b) (7)(C) discharge. Nonetheless, if you withdraw this charge, then you do not have the right to appeal.

Dismissal - If you elect not to withdraw the charge, and if the Region dismisses it for your failure to timely cooperate in the investigation, then you as the Charging Party's representative must decide whether to receive either (1) a short-form or (2) a long-form dismissal letter. The Region forwards the short-form version of its dismissal letter to all parties and only summarily announces dismissal of the charge without setting forth detailed reasons for the action. However, in contrast, while the Region also forwards the long-form version to all parties, such version, includes detailed facts and reasoning for the dismissal (in this case your failure to timely cooperate in the investigation). Many Charging Parties and their representatives find that the long-form dismissal option is least desirable because of their lose control over the level of adverse information released by the Region to all other parties and the public. Regardless, by either form of dismissal letter you choose, you will have the right to appeal the Regional Director's decision to the General Counsel's office in Washington, D.C.

Contact Me: Please promptly telephone me **at 813/228-2669**

(direct dial w/voice mail) to arrange for the presentation of your evidence. If you are unable to cooperate in the investigation at this time, then you should inform me of your selection regarding either withdrawal or the form of dismissal letter you prefer that we issue. If you fail to notify me of your choice for either withdrawal or dismissal, by the January 8th deadline, then the Regional Director reserves the right, at her discretion, to issue a long-form dismissal letter to all parties. If you have any questions, please do not hesitate to contact me.

Thanks.

Dallas Manuel

Senior Field Attorney
NLRB, Region 12/Tampa
voice 813.228.2669
fax 813.228.2874

From: Roderick O. Ford

[<mailto:laboradvocate@fordlawfirm.org>]

Sent: Thursday, December 17, 2015 1:35 PM

To: Manuel, Dallas <Dallas.Manuel@nrlb.gov>

Subject: RE: Request for Board Affidavit (CP): Gopher Resource Corporation, Case 12-CA-165813 (b) (6), (b) (7)(C)

I will contact you before COB today.

Thank you,

Roderick O. Ford
Attorney-At-Law
RODERICK O FORD PLLC
220 E. Madison Street
Suite 1205
Tampa, Florida 33602
(800) 792-2241 -- facsimile
(813) 223-1200 -- Tampa
(727) 755-0958 -- St. Petersburg
(407) 218-6549 -- Orlando
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----- Original Message -----

Subject: Request for Board Affidavit (CP):
Gopher Resource Corporation,
Case 12-CA-165813 (b) (6), (b) (7)(C))
From: "Manuel, Dallas"
<Dallas.Manuel@nlrb.gov>
Date: Thu, December 17, 2015 10:52 am
To: "laboradvocate@fordlawfirm.org"
<laboradvocate@fordlawfirm.org>

Mr. Ford,

Since my below request, I have unsuccessfully attempted to reach you by telephone to discuss its fulfillment (your voicemail box is full and not accepting messages). I am attempting to confirm your, and your client's, availability to present (b) (6), (b) (7)(C)) evidence next week on either of the offered dates set forth below. Please follow-up with me today, by email, in response to this inquiry.

Thanks very much – and Happy Holidays.

Dallas Manuel
dallas.manuel@nlrb.gov

Senior Field Attorney
NLRB, Region 12/Tampa
voice 813.228.2669
fax 813.228.2874

From: Manuel, Dallas
Sent: Tuesday, December 15, 2015
10:40 AM
To: laboradvocate@fordlawfirm.org
Subject: Request for Board Affidavit
(CP): Gopher Resource Corporation,
Case 12-CA-165813 (b) (6), (b) (7)(C))

Mr. Ford,

The undersigned is the assigned investigator of the above-referenced unfair labor practice charge, which you filed on December 10, 2015, on behalf of (b) (6), (b) (7)(C), Charging Party. Based upon the nature of the charge allegation, this investigation must move along quickly. As is noted below, I will need to receive all of the Charging Party's evidence by December 24, 2015.

Board Affidavit Interview: By this email I seek to schedule an in-person Board affidavit of (b) (6), (b) (7)(C), (b) (7)(D) at the Region 12 Regional Office, located in downtown Tampa. I am presently available to meet with you and your client on either **Monday, December 21 or Tuesday, December 22, beginning at 10:30 a.m.** You should anticipate that the interview, statement review and execution should take at least four (4) hours to complete. Please confirm you and your client's availability to meet on either date.

Requested Documents: In advance of our meeting, I would like for you to upload into our online case-management system the following records –

- All relevant records and communications that support your assertion that the Employer solicited for your client to engage in surveillance and reporting of employees' union activities;
- Any statements by (b) (6), (b) (7)(C) about the facts surrounding (b) (6), (b) (7)(C), 2015 discharge;
- All prior discipline issued to (b) (6), (b) (7)(C);
- (b) (6), (b) (7)(C), 2015 discharge notice;
- All records and communications about (b) (6), (b) (7)(C) disputed overtime, which led to (b) (6), (b) (7)(C) discharge;
- The Employer's discipline progression policy that was in effect on (b) (6), (b) (7)(C), 2015;
- All policies that (b) (6), (b) (7)(C) alleged violated;
- The Employer's *Employee Handbook*, and;
- If the Charging Party's assertion is that the Employer has disparately, and by pretext, discharged (b) (6), (b) (7)(C) for policy violation(s), then also provide the identities and contact information for all other, similarly-situated, employees from whom I may obtain testimony about the Employer's knowledge of their similar infractions and its lesser discipline or failure to discipline them.

Instructions for uploading the relevant case records are set forth in my e-signature below. Please categorize these records as "documentary evidence."

By not later than **Thursday, December 17th**, please confirm the date, in advance of our meeting, by which you anticipate uploading these records for my review. Keep in mind that I will need sufficient advance time to review the records before (b) (6), (b) (7)(C), (b) (7)(F) affidavit interview. Do not email the records to me.

I will need to receive all of the Charging Party's evidence by no later than **Thursday, December 24, 2015**. If the Region does not receive all of the Charging Party's evidence by this deadline, then the Regional Director may decide the merits of the case based solely upon the information received as of then.

Thanks so much for your timely cooperation and assistance with this investigation.

Dallas Manuel

Dallas Manuel | Senior Field Attorney
National Labor Relations Board, Region 12
Fifth Third Bank Bldg.
201 E. Kennedy Blvd., Suite #530
Tampa, Florida 33602-5824
voice 813.228.2669; fax 813.228.2874 | www.nlr.gov



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E-File:

The NLRB has converted to an electronic file system.
The NLRB strongly encourages all parties to file electronically, through our online E-File system, all substantive documents presented to the Agency; a link to access our E-File system is here:
<https://apps.nlr.gov/eservice/efileterm.aspx>. To file new charges or petitions, use this link: <https://apps.nlr.gov/eservice/efileterm.aspx?app=chargeandpetition>

Upon successful filing, by email, you will receive a confirmation number and notice.

From: [Manuel, Dallas](#)
To: matthew.tews@stinsonleonard.com; richard.pins@stinsonleonard.com
Subject: Update on Gopher Resources Corporation: NLRB Case 12-CA-165813
Date: Wednesday, January 20, 2016 5:44:09 PM

Messrs. Tews and Pins,

Pursuant to your recent phone call and request, this email is to inform you that the above-referenced case remains under investigation by the Region. When we spoke briefly last evening, I acknowledged delays in the investigation due to additional assigned cases and other matters beyond my control.

In terms of your roles in this case, I anticipate contacting you in the near future for the presentation of the Employer's evidence in defense of the charge. My requesting letter will provide a brief summary of the evidence received from the Charging Party to which you will be asked to respond.

However, the charge itself contains specific facts for which the Employer may wish to now present a preliminary position statement and supporting documents in rebuttal thereto. Providing a preliminary position statement may aid in focusing the investigation and may reduce the matters about which the Employer is asked to respond when the Region issues its formal request for testimony from your witnesses and evidence supporting the Employer's rebuttal and defenses to the charge allegations.

Thanks.

Dallas Manuel

dallas.manuel@nlrb.gov

Senior Field Attorney
NLRB, Region 12/Tampa
voice 813.228.2669
fax 813.228.2874

From: [Manuel, Dallas](#)
To: richard.pins@stinsonleonard.com; matthew.tews@stinsonleonard.com
Subject: Request for Employer's Evidence (by 2/12/2016): Gopher Resource Corporation, NLRB Case 12-CA-165813
Date: Friday, January 29, 2016 8:00:58 PM
Attachments: [LTR.12-CA-165813.Employer's Evidence Request Letter.Gopher Resource Corporation.pdf](#)

Messrs. Pins and Tews,

Attached is the Regional Office's request for the Employer's evidence in the above-referenced case. We request the presentation of witnesses and specific records, but the Employer may produce the records and a position statement although that is not preferred or considered "full cooperation" in the investigation.

The deadline for receipt of the Employer's evidence is February 12, 2016.

Call if you have any questions and if you wish to schedule the presentation of your witnesses.

Thank you,

Dallas Manuel

Dallas Manuel | Attorney

National Labor Relations Board, Region 12

Fifth Third Bank Bldg.

201 E. Kennedy Blvd., Suite #530

Tampa, Florida 33602-5824

voice 813.228.2669; fax 813.228.2874 | www.nlr.gov



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<https://apps.nlr.gov/eservice/efileterm.aspx>. To file new charges or petitions, use this link: <https://apps.nlr.gov/eservice/efileterm.aspx?app=chargeandpetition>

Upon successful filing, by email, you will receive a confirmation number and notice.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 12
201 E Kennedy Blvd Ste 530
Tampa, FL 33602-5824

Agency Website: www.nlrb.gov
Telephone: (813)228-2641
Fax: (813)228-2874

Agent's Direct Dial: (813)228-2669

January 29, 2016

Richard W. Pins, Attorney and
Matthew C. Tews, Attorney
Stinson Leonard Street, LLP
150 South Fifth Street
Suite 2300
Minneapolis, MN 55402-4223

By email only to richard.pins@stinsonleonard.com and
matthew.tews@stinsonleonard.com

Re: Gopher Resource Corporation
Case 12-CA-165813

Dear Messrs. Pins and Tews:

I am writing this letter to advise you that it is now necessary for me to take evidence from your client regarding the allegations raised in the investigation of the above-captioned matter. As explained below, I am requesting to take affidavits in this case by on or before **Friday, February 12, 2016**.

Allegations: The allegations for which I am seeking your evidence are as follows.

Since on or about (b) (6), (b) (7)(C) 2015, and continuing thereafter, Gopher Resource Corporation (the Employer) by its officers, agents and representatives, has discriminated against its employee (b) (6), (b) (7)(C) by discharging (b) (6), (b) (7)(C) under the pretextual charge that (b) (6), (b) (7)(C) obtained unauthorized overtime but, instead, in retaliation for (b) (6), (b) (7)(C) refusals to engage in surveillance of, or reporting to management about, other employees' union and other protected concerted activities.

Board Affidavits: I am requesting to take affidavits from (a) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) and (b) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) and (c) (b) (6), (b) (7)(C) that is referenced in the above-charge allegation -- and any other individuals you believe have information relevant to the investigation of the above-captioned matter. Please be advised that the failure to present representatives who would appear to have information relevant to the investigation of this matter, for the purposes of my taking sworn statements from them, constitutes less than complete cooperation in the

investigation of the charge. Please contact me by Tuesday, February 2, 2016 to schedule these affidavits.

Background: Based my investigation thus far, I understand that in about April 2015, in response to reported union organizing activities, unidentified labor counsel spent several days the Employer's Tampa facility to investigate and to notify employees of its opposition to union representation of its employees. During the course of this visit, (b) (6), (b) (7)(C) and an unidentified labor attorney met privately with the Charging Party to, among other things, assess (b) (6), (b) (7)(C) knowledge of employees' organizing activities. The Charging Party declined repeated requests that (b) (6), (b) (7)(C) solicit and/or report (b) (6), (b) (7)(C) acquired knowledge of employees' union organizing activities to management. Various representatives of the Employer expressed displeasure with the Charging Party's uncooperativeness with its request.

Thereafter, in about late-May 2015, (b) (6), (b) (7)(C) notified the Charging Party that unspecific job functions that (b) (6), (b) (7)(C) performed would be handled by personnel in the Employer's Eagan, Minnesota facility. The Charging Party's last day of employment would be about (b) (6), (b) (7)(C) 2015. (b) (6), (b) (7)(C) explained that the Charging Party would receive a severance package and, alternatively, that (b) (6), (b) (7)(C) could work as a contractor for a brief period and still receive the same severance package. The Charging Party asked, and (b) (6), (b) (7)(C) granted, time for (b) (6), (b) (7)(C) to consider the options.

However, on about (b) (6), (b) (7)(C) 2015, the Charging Party's next work day after notice of the elimination of (b) (6), (b) (7)(C) position, (b) (6), (b) (7)(C) met with (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C). At this meeting, which occurred after the Charging Party notified (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) acceptance of the Employer's offer to extend (b) (6), (b) (7)(C) employment as a contractor and of the severance package, management discharged (b) (6), (b) (7)(C). The reason for (b) (6), (b) (7)(C) discharge, as provided by (b) (6), (b) (7)(C), was because (b) (6), (b) (7)(C) could not immediately account for about 1.5 hours of overtime that (b) (6), (b) (7)(C) had previously claimed. The Charging Party requested, but was denied, the opportunity to check (b) (6), (b) (7)(C) computer and other information resources in order to reconstruct how (b) (6), (b) (7)(C) had used the time paid, which had occurred several months earlier.

The Charging Party argues that the Employer's discharge of (b) (6), (b) (7)(C) for unauthorized overtime was pretextual. Moreover, based upon this pretext, the Employer deprived (b) (6), (b) (7)(C) of the accepted 3-month severance package and several additional employment days. Instead, the Charging Party argues, the Employer discharged (b) (6), (b) (7)(C) because (b) (6), (b) (7)(C) refused to engage in unlawful surveillance and reporting of (b) (6), (b) (7)(C) co-workers' union activities and union sentiments.

Documents: Please provide the following documents, along with any and all other evidence you deem to be relevant to the case:

1. The complete personnel file for (b) (6), (b) (7)(C), including but not limited to, (b) (6), (b) (7)(C) position description, performance appraisals, performance accolades, past discipline and (b) (6), (b) (7)(C) 2015 discharge;

2. The Employer's Employee Handbook in effect on or about June 1, 2015;
3. Covering the period of January 1, 2014 through June 30, 2015, all documents addressing the Employer's deliberations and its decision to transfer (b) (6), (b) (7)(C) specific job duties to the Employer's Eagan, Minnesota facility;
4. All non-attorney/client protected records and communications created and/or compiled by the Employer as a part of its investigation into possible unauthorized overtime claimed by (b) (6), (b) (7)(C), including the complaint, act or suspicion that prompted the investigation, all documents and electronic media evaluated, and the Employer's final investigative report and recommended action(s);
5. All non-attorney/client protected records and communications circulated amongst managers and/or supervisors wherein the Employer deliberated and decided to discharge (b) (6), (b) (7)(C);
6. All non-disciplinary notices, discipline and discharges issued to other similarly-situated employees charged with obtaining unauthorized overtime during the period of January 1, 2013 to the present;
7. The complete personnel files, and all evidence relied upon by the Employer, for all non-disciplinary notices, discipline and discharges issued to similarly-situated employees whom it charged with obtaining unauthorized overtime during the period of January 1, 2013 to the present;
8. All documentation of (b) (6), (b) (7)(C)' acceptance of the Employer's offer of a 3-month severance package and to extend (b) (6), (b) (7)(C) employment beyond (b) (6), (b) (7)(C), 2015, as a contractor;
9. All non-attorney/client protected records and communications documenting the Employer's specific requests and/or instructions to (b) (6), (b) (7)(C), in about April 2015, including (b) (6), (b) (7)(C) response(s), that relate to (b) (6), (b) (7)(C) acquiring and reporting to management (b) (6), (b) (7)(C) knowledge about other employees' union activities and union sentiments and;
10. All scripts and talking points created and/or used by supervisors and/or managers who spoke with employees about the union organizing campaign, in either group or individual settings, during the period of April 2015 to date.

Supplemental Positions Requested:

- (a) In addition to production of the foregoing records, the Regional Office asks for the identification, by name and contact information, those labor attorneys retained by the Employer for the meetings about union organizing at its Tampa, Florida facility in about April 2015.

- (b) The Regional Office also asks for the Employer to state its positions on whether (b) (6), (b) (7)(C), at the time of (b) (6), (b) (7)(C) discharge, was a Section 2(11) supervisor or a Section 2(13) agent. If either, then the Employer should also specify which criteria it relies upon for its legal conclusions. Moreover, if the Employer's position is that (b) (6), (b) (7)(C) is either a supervisor or agent, within the meaning of the Act, then the investigating Board agent will request additional records by which to evaluate the Employer's claim(s).

Date for Submitting Evidence: To resolve this matter as expeditiously as possible, you must provide your evidence and position in this matter by Friday, February 12, 2016. If you are willing to allow me to take affidavits, please contact me by Tuesday, February 2, 2016 to schedule a time to take affidavits. Electronic filing of position statements and documentary evidence through the Agency website is preferred but not required. To file electronically, go to www.nlr.gov, select **E-File Documents**, enter the **NLRB case number**, and follow the detailed instructions. If I have not received all your evidence by the due date or spoken with you and agreed to another date, it will be necessary for me to make my recommendations based upon the information available to me at that time.

Please contact me at your earliest convenience by telephone, (813)228-2669, or e-mail, dallas.manuel@nlrb.gov, so that we can discuss how you would like to provide evidence and I can answer any questions you have with regard to the issues in this matter.

Very truly yours,

Dallas Manuel

DALLAS MANUEL
Senior Field Attorney

February 24, 2016

Via e-filing

Attn: Dallas Manuel
Senior Field Attorney
National Labor Relations Board, Region 12
201 E. Kennedy Blvd. Ste. 530
Tampa, FL 33602-5824

Re: ***Gopher Resource Corporation, Case No. 12-CA-165813***

Dear Mr. Manual,

As you know, we represent Gopher Resource Corporation ("Gopher"). This letter constitutes Gopher's Position Statement and response to the Board's request for evidence,^{[1][2]} based on the best information currently available and its current understanding of (b) (6), (b) (7)(C) Charge. Gopher denies that it committed any unfair labor practice and reserves the right to amend and/or supplement if necessary.

(b) (6), (b) (7)(C)' employment ended because (b) (6), (b) (7)(C) position was eliminated; and (b) (6), (b) (7)(C) termination date was accelerated by one day, and an offer of severance revoked because in the process of working with (b) (6), (b) (7)(C) on a transition plan, Gopher learned that (b) (6), (b) (7)(C) had engaged in significant and blatant time theft. Neither the unrelated and short-lived union activity that ended two-months earlier nor the perfunctory

[1] With respect to the documents requested in your January 29, 2016 letter:

- (1) (b) (6), (b) (7)(C)' personnel file is attached as Exhibit R.
- (2) Gopher's relevant handbook policies/rules are attached as Exhibit A.
- (3) Documents evidencing Gopher's decision to centralize Payroll are attached as Exhibits I, J, and K.
- (4)-(5) Certain documents evidencing the investigation into (b) (6), (b) (7)(C) time theft and termination of employment are attached as Exhibits L, M, N, O, P, and Q. The investigation consists of many hundreds of pages of documents, including raw data containing building and computer login information, not all of which is included.
- (6)-(7) Gopher has attached the termination of employment notices issued to the *three other* Tampa, Florida employees whose employment was terminated for time theft in 2015 as Exhibits B, C, and D. These former employees' personnel files are not relevant and their production would constitute an undue and unnecessary invasion of their privacy. Exhibits B, C, and D are redacted to protect the identities of the former employees.
- (8) (b) (6), (b) (7)(C) did not accept any severance package. No severance package—which would have included a global release of claims—was finalized or formally offered to (b) (6), (b) (7)(C) as shortly after formally notifying (b) (6), (b) (7)(C) of the consolidation and elimination of (b) (6), (b) (7)(C) position, Gopher became suspicious of (b) (6), (b) (7)(C) time entry practices, investigated them, and accelerated the last day of (b) (6), (b) (7)(C) employment because of (b) (6), (b) (7)(C) theft.
- (9) No non-attorney-client privileged documents exist. To the best of Gopher's recollection, (b) (6), (b) (7)(C) was asked to report employee concerns to management as a part of (b) (6), (b) (7)(C) normal job duties in (b) (6), (b) (7)(C) position as (b) (6), (b) (7)(C), and (b) (6), (b) (7)(C) role as a Gopher supervisor/manager/agent. To the best of Gopher's recollection, (b) (6), (b) (7)(C) did not object to performing (b) (6), (b) (7)(C) job.
- (10) Non non-attorney-client privileged documents exist.

[2] With respect to the supplemental positions requested: (a) Richard Pins and Jennifer Ives of Stinson Leonard Street provided confidential and attorney-client privileged advice to Gopher in March 2015; (b) (b) (6), (b) (7)(C) was a statutory supervisor, statutory agent, and manager at all relevant times, as discussed herein.

TIPS/FORE training (b) (6), (b) (7)(C) was given (just like all other (b) (6), (b) (7)(C) personnel) during that process played any role in (b) (6), (b) (7)(C) discharge, and the suggestion that they did strains all credulity. The fact is that, in 2014, Gopher began the process of looking to consolidate its payroll functions at its Eagan, Minnesota facility, and in turn eliminating what was (b) (6), (b) (7)(C) position in Tampa, Florida. The decision, and a rough timeline for consolidation, was finalized by February 2015, before there was any talk of a union. On May 28, 2015, well after the union was gone, Gopher told (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) position would be eliminated. Gopher wanted to ease (b) (6), (b) (7)(C) departure from the Company by offering (b) (6), (b) (7)(C) contractor work for a few months and/or a severance package. But in early June, Gopher became suspicious of (b) (6), (b) (7)(C)' time-tracking because (b) (6), (b) (7)(C) had not entered vacation time for the previous week (a week in which (b) (6), (b) (7)(C) had been out). In turn, Gopher conducted an investigation, which revealed blatant overtime theft. After giving (b) (6), (b) (7)(C) an opportunity to explain—which (b) (6), (b) (7)(C) could not do—it terminated (b) (6), (b) (7)(C) employment on (b) (6), (b) (7)(C) 2015, one day before it had planned.

Completely unrelated to that process, in March 2015, (b) (6), (b) (7)(C) was given "TIPS/FORE" training—the same training that Gopher provided to all of its supervisors and agents at its Tampa facility—after Gopher had heard rumblings of union organizing activity. These events—this March training and (b) (6), (b) (7)(C) discharge—had nothing to do with one another, and any suggestion that they may have is somewhat nonsensical, especially given that Gopher's initial willingness to ease (b) (6), (b) (7)(C) transition and/or provide a severance, which was only withdrawn once Gopher learned of (b) (6), (b) (7)(C) theft, fell between the March training and (b) (6), (b) (7)(C) discharge.

Gopher respectfully requests that (b) (6), (b) (7)(C)' Charge be dismissed in its entirety.

FACTUAL BACKGROUND

I. Gopher's Business and Relevant Rules

A. Gopher's Business and Locations

Gopher is an environmental solutions provider that has been in business for nearly 70 years. Its purpose is to safely and efficiently recycle lead-based batteries. Its primary business operations and corporate headquarters are located in Eagan, Minnesota. It also operates a facility in Tampa, Florida.

B. Gopher Prohibits Time Theft and Uniformly Enforces its Time Theft Rules

Gopher has implemented straightforward rules and policies requiring its employees to accurately and honestly record their time. The following rules and policies are relevant here:

Recording of Hours

All non-exempt (hourly) employees are required to record all hours worked. The method of record keeping is specified by the Company.

Employees are expected to accurately record the time they begin and end work, as well as the beginning and ending time of each break period . . .

Tampering, altering, or *falsifying time records* or recording time on another employee's time record may result in disciplinary action as per written rules and regulations.

Overtime

Non-exempt (hourly) employees are compensated for hours exceeding forty (40) in a work week . . . The reporting of overtime is the responsibility of the employee. Pay for time not worked such as holiday pay, or vacation pay will not be included as hours worked for the purposes of computing overtime.

Ex. A (emphasis added). Gopher reasonably expects its employees to conduct themselves, professionally and ethically, which includes adherence to its rules and policies. Ex. A. To this end, Gopher maintains a set of rules designed to help employees understand what is expected by the Company and what consequences are likely to result for failing to meet expectations. Gopher determines the appropriate level of discipline based on an individualized case-by-case assessment of each situation. However, time theft—"knowingly punching the timecard of another employee or *unauthorized altering of a timecard, resulting in the timecard showing more time than actual time worked*"—is a serious infraction generally resulting in termination of employment in the first instance. Ex. A.

Gopher consistently terminates the employment of employees who, like (b) (6), (b) (7)(C), steal time. Indeed, Gopher immediately terminated the employment of every other employee caught violating its rules against time theft in 2015. Exs. B, C, D.

II. (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) Position

Gopher hired (b) (6), (b) (7)(C) as a (b) (6), (b) (7)(C) at its Tampa, Florida facility in (b) (6), (b) (7)(C). As a (b) (6), (b) (7)(C) representative, (b) (6), (b) (7)(C) provide[d] support in various areas of (b) (6), (b) (7)(C) and [was] responsible for (b) (6), (b) (7)(C), "a job that required independent judgment in solving "problems generally related to employees" and "determin[ing] the appropriate course of action." Ex. E. When (b) (6), (b) (7)(C) was hired, (b) (6), (b) (7)(C) had little (b) (6), (b) (7)(C) experience and focused mostly on processing (b) (6), (b) (7)(C) and responding to (b) (6), (b) (7)(C) related questions. And, indeed, throughout (b) (6), (b) (7)(C) employment a significant portion of (b) (6), (b) (7)(C) job involved (b) (6), (b) (7)(C) functions. While (b) (6), (b) (7)(C) was always a primary part of (b) (6), (b) (7)(C) job, from the start (b) (6), (b) (7)(C) was involved in the (b) (6), (b) (7)(C) process and was required to solve problems between employees with "thoughtful responses." Ex. E.

The supervisory/employee (b) (6), (b) (7)(C) parts of (b) (6), (b) (7)(C) job grew over time, as reflected in (b) (6), (b) (7)(C) annual performance appraisals. By (b) (6), (b) (7)(C) 2012 review, (b) (6), (b) (7)(C) had "become an important part of the (b) (6), (b) (7)(C) committee and [led a] team," "plant employees look[ed] up to (b) (6), (b) (7)(C) for advice and guidance," and (b) (6), (b) (7)(C) used (b) (6), (b) (7)(C) judgment and discretion in making decisions with managerial involvement when appropriate. Ex. F. (b) (6), (b) (7)(C) 2013 and 2014 reviews showed an ever increasing role in managing (b) (6), (b) (7)(C). In 2013, (b) (6), (b) (7)(C) stated that (b) (6), (b) (7)(C) "greatest improvement has been in the area of (b) (6), (b) (7)(C). There have been several circumstances this year where my application of good judgment has resulted in favorable resolutions with employees," and (b) (6), (b) (7)(C) manager noted the discretion and judgment inherent in (b) (6), (b) (7)(C) responsibilities. Ex. G (emphasis added). (b) (6), (b) (7)(C) 2014 review indicated even more involvement in management's (b) (6), (b) (7)(C) decisions as

(b) (6), (b) (7)(C) strove to "make sound decisions," and handle and resolve (b) (6), (b) (7)(C) issues. Moreover, (b) (6), (b) (7)(C) noted that (b) (6), (b) (7)(C) "relationship with department supervisors [was] stronger than last year, and oftentimes supervisors seek my opinion on how to deal with problematic employees." Ex. H.

By the end of (b) (6), (b) (7)(C) employment in (b) (6), (b) (7)(C) 2015, in addition to (b) (6), (b) (7)(C) significant (b) (6), (b) (7)(C) duties (b) (6), (b) (7)(C) was (b) (6), (b) (7)(C) issues between employees and supervisors; consulting and advising supervisors on handling (b) (6), (b) (7)(C) issues; conducting parts of internal (b) (6), (b) (7)(C) investigations; administering discipline; and leading the (b) (6), (b) (7)(C) in identifying (b) (6), (b) (7)(C) issues from the production floor.

III. Gopher Gives (b) (6), (b) (7)(C) Standard Labor Law Training

On March 10, 2015, Gopher learned that there may be union organizing activity occurring at its Tampa location. In mid to late March, Gopher gave its managers, supervisors, and agents confidential, attorney-client privileged, training on basic labor law rights and prohibitions under the familiar "TIPS/FORE" acronym. (b) (6), (b) (7)(C) as (b) (6), (b) (7)(C) with significant (b) (6), (b) (7)(C) responsibilities, was given this training—as (b) (6), (b) (7)(C) was away from the office the day that the greater (b) (6), (b) (7)(C) group was provided the training. (b) (6), (b) (7)(C) was given the training separately, although it was based on the same TIPS/FORE criteria/restrictions. Just like every other manager, supervisor, and agent, (b) (6), (b) (7)(C) was trained in TIPS, meaning that (b) (6), (b) (7)(C) was specifically informed that (b) (6), (b) (7)(C) was NOT to Threaten, Interrogate, make Promises to, or conduct Surveillance of/Spy on employees. Until it received notice of the charge in this matter, Gopher was unaware that (b) (6), (b) (7)(C) had any concerns with this training.

IV. (b) (6), (b) (7)(C) Employment was Terminated for Legitimate Reasons Completely Unrelated to Organizing Activity

(b) (6), (b) (7)(C) claims that Gopher terminated (b) (6), (b) (7)(C) employment in retaliation for (b) (6), (b) (7)(C) alleged refusal to cooperate with management during a union organizing effort in March 2015. The evidence does not support (b) (6), (b) (7)(C) claim. After considering consolidation of payroll throughout 2014, Gopher finalized and formalized its decision in early February 2015. (b) (6), (b) (7)(C) job would be eliminated as a result—and the elimination of (b) (6), (b) (7)(C) position was accelerated by only one day—from (b) (6), (b) (7)(C) to (b) (6), (b) (7)(C)—as a result of (b) (6), (b) (7)(C) time theft, and Gopher's discovery thereof.

A. Gopher Decides to Consolidate Payroll at its Minnesota Headquarters

Throughout 2014, Gopher considered consolidating its (b) (6), (b) (7)(C) operations in Eagan, Minnesota. In late summer, Gopher sought detailed information about (b) (6), (b) (7)(C) responsibilities to help it better understand the workload that would be relocated to Minnesota. For example, on August 21, 2014, (b) (6), (b) (7)(C) emailed (b) (6), (b) (7)(C) (b) (6), (b) (7)(C), asking for information on the payroll functions performed in Tampa so that (b) (6), (b) (7)(C) could forward that information to (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) responded the next day with a list (b) (6), (b) (7)(C) received from (b) (6), (b) (7)(C). The purpose of this exchange was to gather information to help Gopher make its consolidation decision. Ex. I.

By late 2014 Gopher was well on its way to finalizing its consolidation plan. It hired (b) (6), (b) (7)(C) as (b) (6), (b) (7)(C) in Eagan, Minnesota in December, 2014, to help with the transition. The purpose of (b) (6), (b) (7)(C)'s position is to provide centralized human resource and payroll services to all of Gopher's employees. In early February 2015, (b) (6), (b) (7)(C) formally set three priorities for 2015; "GOAL #1" was to "centralize payroll" in Eagan. (b) (6), (b) (7)(C) set an aggressive timeline, and hoped to finish the consolidation project by mid-June, 2015. Ex. J.

B. Gopher Planned to Offer (b) (6), (b) (7)(C) Temporary Work as an Independent Contractor and/or Severance to Ease (b) (6), (b) (7)(C) Transition

Gopher formally notified Ms. (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C)'s position was being eliminated on (b) (6), (b) (7)(C), 2015, and that (b) (6), (b) (7)(C)'s last day of employment would be (b) (6), (b) (7)(C), 2015. Ex. K. While (b) (6), (b) (7)(C)'s last day as a Gopher employee was going to be (b) (6), (b) (7)(C), Gopher planned to hire (b) (6), (b) (7)(C) as an independent contractor to assist with ongoing projects at the plant and to offer (b) (6), (b) (7)(C) a severance package of a few months' pay in exchange for a global release of claims. As discussed below, this offer was never finalized due to (b) (6), (b) (7)(C)'s theft.

While (b) (6), (b) (7)(C) was formally notified that (b) (6), (b) (7)(C)'s position would be eliminated on (b) (6), (b) (7)(C), 2015, Gopher had been discussing the possibility of position elimination, its timing, and the goal of providing (b) (6), (b) (7)(C) as much advance notice as possible since 2014. Ex. K. (b) (6), (b) (7)(C) noting that when (b) (6), (b) (7)(C) had previously told (b) (6), (b) (7)(C) "about the possibility of [a] (b) (6), (b) (7)(C) move to Eagan[,] I promise[d] (b) (6), (b) (7)(C) that I would give (b) (6), (b) (7)(C) as much notice as possible. I would still like to do that. I spoke with (b) (6), (b) (7)(C) last year and (b) (6), (b) (7)(C) said it would be okay" (emphasis added). Indeed, (b) (6), (b) (7)(C)'s May 12, 2015 email confirms that (b) (6), (b) (7)(C) had been notified that (b) (6), (b) (7)(C)'s position may be eliminated well before (b) (6), (b) (7)(C) received formal notice. It also indicates that Gopher planned to provide (b) (6), (b) (7)(C) with a severance package even after (b) (6), (b) (7)(C)'s March 2015 training, and that neither this training nor anything related to the union activity in Tampa had any relationship to (b) (6), (b) (7)(C)'s planned separation.

C. Gopher Learns that (b) (6), (b) (7)(C) Has Been Stealing Time and Does Not Offer (b) (6), (b) (7)(C) a Temporary Independent Contractor Role or Severance

(b) (6), (b) (7)(C) reviewed (b) (6), (b) (7)(C)'s accumulated vacation/PTO balances in early June of 2015 in anticipation of paying it out at the conclusion of (b) (6), (b) (7)(C)'s employment. In doing so, (b) (6), (b) (7)(C) noticed something odd: (b) (6), (b) (7)(C) "didn't put any vacation for (b) (6), (b) (7)(C) cruise or for (b) (6), (b) (7)(C) days last week." Ex. L. (b) (6), (b) (7)(C) had also recorded overtime that week. This was extremely odd and highly suspicious. Indeed, it was almost impossible that (b) (6), (b) (7)(C) could have worked overtime the week in question, since (b) (6), (b) (7)(C) was off on Wednesday and Friday. Ex. M.

This oddity caused Gopher to investigate (b) (6), (b) (7)(C)'s overtime practices. What it discovered was disappointing and staggering, especially considering Gopher had entrusted (b) (6), (b) (7)(C) with Tampa's (b) (6), (b) (7)(C). For example, Gopher's investigation revealed that (b) (6), (b) (7)(C) had been "entering (b) (6), (b) (7)(C) OT on the timesheet and [then] adjust[ing] (b) (6), (b) (7)(C) hours on the timesheet." Ex. N. Gopher also learned that, despite seemingly not being that busy and taking 136 hours of various paid time off in 2014 (which would not count towards overtime calculations), (b) (6), (b) (7)(C) had entered 690 hours of overtime for (b) (6), (b) (7)(C) in 2014, with at least some overtime entered every single week. Ex. O. Even more damning, in the first

two weeks of 2015 (b) (6), (b) (7)(C) entered overtime for (b) (6), (b) (7)(C) despite also taking 40 hours of vacation, in weeks that both had holidays, “meaning (b) (6), (b) (7)(C) was in the office 2 days both weeks.” Ex. O.

Continuing its investigation, Gopher focused on weekends—when (b) (6), (b) (7)(C) was unlikely to work—and cross-referenced (b) (6), (b) (7)(C) overtime entries with (b) (6), (b) (7)(C) building entries and computer activity. Ex. P. This revealed more suspicious activity, including two weekend days on which (b) (6), (b) (7)(C) claimed overtime when (b) (6), (b) (7)(C) logged in only once (far less than on (b) (6), (b) (7)(C) normal working days) and six weekend days on which (b) (6), (b) (7)(C) claimed overtime that (b) (6), (b) (7)(C) never logged in at all. Ex. P. Ultimately, focusing just on the five most recent weekend overtime entries, it became obvious that (b) (6), (b) (7)(C) was stealing significant time:

- On Friday, April 3, 2015, (b) (6), (b) (7)(C) entered 4.5 hours of overtime. (b) (6), (b) (7)(C) was on company property for 29 minutes during which (b) (6), (b) (7)(C) went on Facebook and Gmail, but sent no company emails and did not attempt to log onto the (b) (6), (b) (7)(C) platform (on which most of (b) (6), (b) (7)(C) computer work would be done);
- On Sunday, April 12, 2015, (b) (6), (b) (7)(C) entered 6 hours of overtime. (b) (6), (b) (7)(C) never went online and never was on company property;
- On Saturday, April 18, 2015, (b) (6), (b) (7)(C) entered 6 hours of overtime. (b) (6), (b) (7)(C) never went online and never was on company property;
- On Sunday, April 26, 2015, (b) (6), (b) (7)(C) entered 4.5 hours of overtime. (b) (6), (b) (7)(C) never went online and never was on company property;
- On Sunday, May 31, 2015, (b) (6), (b) (7)(C) entered 5.5 hours of overtime. (b) (6), (b) (7)(C) was on company property for just under 2 hours during which (b) (6), (b) (7)(C) was logged onto the (b) (6), (b) (7)(C) platform and appears to have actually worked for about 1 hour, and otherwise sent several emails to (b) (6), (b) (7)(C) personal email about (b) (6), (b) (7)(C)

Ex. Q.

(b) (6), (b) (7)(C) confronted (b) (6), (b) (7)(C) with some of this damning information, including the most recent weekend entries, on (b) (6), (b) (7)(C) 2015. (b) (6), (b) (7)(C) did not offer an explanation. Gopher terminated (b) (6), (b) (7)(C) employment effective immediately.

ANALYSIS

(b) (6), (b) (7)(C) charge should be dismissed because (1) (b) (6), (b) (7)(C) was not an “employee” protected by the Act and (2) (b) (6), (b) (7)(C) charge is meritless. Gopher respectfully requests that (b) (6), (b) (7)(C) charge be dismissed in its entirety.

I. (b) (6), (b) (7)(C) was a Statutory Supervisor and Statutory Agent

The Act protects the protected concerted activity of employees; (b) (6), (b) (7)(C) was not an employee protected by the Act because (b) (6), (b) (7)(C) was a statutory supervisor and statutory agent. As such, Gopher lawfully provided (b) (6), (b) (7)(C) with confidential, attorney-client privileged, FORE/TIPS training. Far from

being asked to spy on employees, (b) (6), (b) (7)(C) was trained to do the exact opposite. And to the extent (b) (6), (b) (7)(C) claims (b) (6), (b) (7)(C) was asked to inform other individuals in management of (b) (6), (b) (7)(C) concerns learned during (b) (6), (b) (7)(C) normal job duties, such direction was clearly appropriate and was, in fact, a core part of (b) (6), (b) (7)(C) job. See Ex. F (noting that (b) (6), (b) (7)(C) was the leader of an (b) (6), (b) (7)(C) committee's whose very purpose was to identify (b) (6), (b) (7)(C)). Given (b) (6), (b) (7)(C) role and heavy involvement in day-to-day (b) (6), (b) (7)(C) Gopher needed to provide (b) (6), (b) (7)(C) with such training to protect (b) (6), (b) (7)(C) and, therefore, itself from unwittingly committing unfair labor practices.

(b) (6), (b) (7)(C) was a statutory supervisor. Under the Act, a supervisor is:

Any individual having authority, in the interest of the employer, to [1] hire, [2] transfer, [3] suspend, [4] layoff, [5] recall, [6] promote, [7] discharge, [8] assign, [9] reward, or [10] discipline employees, or [11] responsibly to direct them, or [12] to adjust their grievances, or *effectively to recommend such action*, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

29 U.S.C. § 152(11) (emphasis added). The Supreme Court uses a three-part test to determine supervisory status. An individual is a supervisor if: (1) she holds the authority to engage in *any* one of the twelve supervisory functions, (2) she is required to use independent judgment to exercise that authority, and (3) the authority is held in the interest of the employer. *NLRB v. Kentucky River Community Care, Inc.*, 532 U.S. 706, 712-13 (2001). Under *Kentucky River*, it is clear that (b) (6), (b) (7)(C) was a supervisor. In short, and as discussed at length above, (b) (6), (b) (7)(C) was an important member of Gopher management's (b) (6), (b) (7)(C) team, and had the authority to use (b) (6), (b) (7)(C) own judgment in the hiring process, conducting investigations, administering discipline, resolving employee grievances, identifying employee grievances through (b) (6), (b) (7)(C) leadership work on the (b) (6), (b) (7)(C) and giving advice to other (b) (6), (b) (7)(C) Exs. G, H. All of this authority was held on behalf of Gopher and, in (b) (6), (b) (7)(C) own words, (b) (6), (b) (7)(C) exercised independent judgment in carrying out (b) (6), (b) (7)(C) job.¹

(b) (6), (b) (7)(C) was also a statutory agent. 29 U.S.C. § 152(13). The Board applies common law agency principles when determining whether an individual is an agent. *E.g. ManorCare Health Services-Easton*, 356 NLRB No. 39 (2010). (b) (6), (b) (7)(C) employees with responsibilities similar to (b) (6), (b) (7)(C) have routinely been considered agents under the Act. For example, in *ManorCare* the Board concluded that its "human resources assistant" "*clearly* was an agent of ManorCare" because the HR assistant regularly spoke for management on payroll and time-clock procedures, interviewed applicants, resolved payroll issues, and employees would reasonably have believed that she represented and spoke for management in personnel-related matters. *Id.*; *Logisticare Solutions, Inc.*, 363 NLRB No. 85 (2015) (stipulating that "Human Resources/Training Manager" was supervisor and

(b) (6), (b) (7)(C) was also a manager. Managers are those who formulate or effectuate "management policies by expressing and making operative the decisions of their employer, utilizing discretion within, or even independently of, established employer policy." *NLRB v. Yeshiva University*, 444 U.S. 672, 682 (1980). (b) (6), (b) (7)(C) was directly involved in effectuating management policies and utilizing (b) (6), (b) (7)(C) own discretion independently of established employer policy. Indeed, it was part of (b) (6), (b) (7)(C) job description to do so. Ex. E ("Problems generally relate to employees . . . judgment is required in determining the appropriate course of action.").

agent). (b) (6), (b) (7)(C) regularly did all of those duties, as discussed above. (b) (6), (b) (7)(C) was clearly a statutory agent, and because employers are liable for the conduct of their agents, it was particularly important for Gopher to provide (b) (6), (b) (7)(C) with FORE/TIPS training. *Wackenhut Corp.*, 348 NLRB No. 93 (2006) (employer's human resources personnel were agents and employer could be liable for their actions as unfair labor practices); *North Fork Servs. Joint Venture*, 346 NLRB No. 92 (2006) (human resources manager was an agent because "employer supplied reasonable basis for third parties to believe that it authorized her to act on its behalf when employer's front desk referred job applicants to her as employer's "personnel person" or "human resources person," and employer's brief in unfair-labor-practice proceeding referred to her as person who handled employer's administrative and human resources matters."); *Waterfront Servs. Co.*, 340 NLRB No. 154 (2003) (employer's human resources administrator was agent and employer therefore violated NLRA when this agent attended union meeting naively believing that she was entitled to attend such meeting).

Gopher lawfully provided (b) (6), (b) (7)(C) with training, and (b) (6), (b) (7)(C) is not protected by the Act. Gopher respectfully requests that (b) (6), (b) (7)(C) charge be dismissed.

II. (b) (6), (b) (7)(C) Charge Lacks Merit

(b) (6), (b) (7)(C) claims that Gopher terminated (b) (6), (b) (7)(C) employment—rather, accelerated (b) (6), (b) (7)(C) termination of employment date and refused to offer (b) (6), (b) (7)(C) severance—because (b) (6), (b) (7)(C) allegedly refused to spy on employees almost three months earlier. (b) (6), (b) (7)(C) claim, to the best of Gopher's understanding, is a retaliation claim. Under *Wright Line*, that requires (b) (6), (b) (7)(C) to first prove (b) (6), (b) (7)(C) *prima facie* case by showing (1) (b) (6), (b) (7)(C) engaged in protected activity, (2) Gopher knew about it, (3) (b) (6), (b) (7)(C) suffered an adverse action, and (4) that adverse action was motivated by antiunion animus. *E.g. Austal USA*, 356 NLRB No. 65 (2010). If (b) (6), (b) (7)(C) could prove (b) (6), (b) (7)(C) *prima facie* case, which (b) (6), (b) (7)(C) cannot, (b) (6), (b) (7)(C) charge must still be dismissed if Gopher shows that it would have taken the same action absent (b) (6), (b) (7)(C) protected activity. The facts do not support (b) (6), (b) (7)(C) claim. In fact, (b) (6), (b) (7)(C) claim makes no sense.

First, there is no evidence that (b) (6), (b) (7)(C) engaged in protected activity or that Gopher knew about (b) (6), (b) (7)(C) engaging in any protected activity. As a preliminary matter, (b) (6), (b) (7)(C) is not protected by the Act. Even if (b) (6), (b) (7)(C) was, (b) (6), (b) (7)(C) was not asked to spy on employees—in fact, and maybe a bit ironically, (b) (6), (b) (7)(C) was trained to do the exact opposite. Moreover, until it received this charge, Gopher was unaware that (b) (6), (b) (7)(C) believed Gopher had any concerns with the confidential, attorney-client privileged labor law training (b) (6), (b) (7)(C) received. Because (b) (6), (b) (7)(C) is not protected by the Act and did not engage in protected activity, (b) (6), (b) (7)(C) charge fails.

Second, even assuming (b) (6), (b) (7)(C) engaged in protected activity, (b) (6), (b) (7)(C) charge still fails because there is no evidence that either the elimination of (b) (6), (b) (7)(C) position or acceleration of (b) (6), (b) (7)(C) termination after learning about (b) (6), (b) (7)(C) theft was motivated by antiunion animus, and Gopher would have taken the same actions absent any protected activity. In short, Gopher terminated (b) (6), (b) (7)(C) employment for two legitimate reasons: (1) (b) (6), (b) (7)(C) job was eliminated prior to Gopher learning of any union organizing activity; (2) (b) (6), (b) (7)(C) stole significant overtime.

As discussed at length above, Gopher made the decision to eliminate (b) (6), (b) (7)(C) position *well before* it learned of any organizing activity and *well before* (b) (6), (b) (7)(C) alleges that (b) (6), (b) (7)(C) engaged in any protected activity. Gopher hired (b) (6), (b) (7)(C) in (b) (6), (b) (7)(C) as part of its consolidation efforts, and (b) (6), (b) (7)(C)

Matthews made it (b) (6), (b) (7)(C) number one priority to consolidate (b) (6), (b) (7)(C) (which necessarily resulted in the elimination of Plaintiff's position) (b) (6), (b) (7)(C) formalized this goal and set a timeline for it in early February 2015. Because Gopher had already made its decision, it was impossible for Gopher to retaliate against (b) (6), (b) (7)(C) for anything that happened in March 2015. *Cotton v. Cracker Barrel Old Country Store, Inc.*, 434 F.3d 1227, 1232 (11th Cir. 2006) (holding that when an employer contemplates a given action before the employee engaged in protected activity, the employer cannot rely on temporal proximity to show causation); *see See Meyer v. Sec'y, U.S. Dept. Health & Human Servs.*, 592 Fed. Appx. 786, 793 (11th Cir. 2014) (where employer "had already taken substantial steps towards terminating" plaintiff's employment before she engaged in protected activity, employee could not rely on temporal proximity to prove causation). Moreover, the facts do not show any evidence of retaliation after March 2015. Rather, Gopher was committed to providing (b) (6), (b) (7)(C) with a temporary job as an independent contractor and/or severance after (b) (6), (b) (7)(C) allegedly engaged in protected activity. Gopher's actions are completely contrary to retaliatory intent.² The timing of Gopher's actions further undermines (b) (6), (b) (7)(C) charge. (b) (6), (b) (7)(C) allegation—that Gopher offered (b) (6), (b) (7)(C) severance in late May and then retracted that offer one day later in retaliation (b) (6), (b) (7)(C) for (b) (6), (b) (7)(C) alleged protected activity in March simply makes no sense. It would be odd indeed for Gopher to offer severance and then suddenly change its mind shortly thereafter based on something that it allegedly knew about months earlier. Rather, this chain of events establishes that something else happened in between the date (b) (6), (b) (7)(C) was notified that (b) (6), (b) (7)(C) position would be eliminated and (b) (6), (b) (7)(C) last day of employment.

That "something else," of course, was the discovery of (b) (6), (b) (7)(C) massive overtime theft. Gopher only learned that (b) (6), (b) (7)(C), who was in charge of Tampa's (b) (6), (b) (7)(C), had been stealing overtime after it officially notified (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) position would be eliminated. Gopher then thoroughly investigated (b) (6), (b) (7)(C) theft and offered (b) (6), (b) (7)(C) a chance to explain (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) failed to offer an explanation. As it did with every other employee who stole time in 2015, Gopher immediately terminated (b) (6), (b) (7)(C) employment.

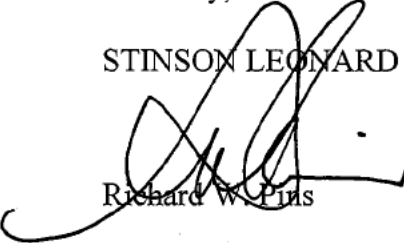
² In addition, (b) (6), (b) (7)(C)'s retaliation charge fails as a matter of law because the two-and-one-half months between (b) (6), (b) (7)(C) alleged protected activity in mid-March 2015 and the termination of (b) (6), (b) (7)(C) employment on (b) (6), (b) (7)(C) 2015 refutes causation as a matter of law. *E.g. Williams v. Waste Mgmt., Inc.*, 411 Fed. Appx. 226 (11th Cir. 2011) (concluding that two month gap between alleged protected activity and adverse action was insufficient as a matter of law to prove causation in retaliation case).

CONCLUSION

(b) (6), (b) (7)(C)' charge is meritless. Gopher decided to eliminate (b) (6), (b) (7)(C)' position well before (b) (6), (b) (7)(C)' allegedly engaged in any protected activity and accelerated the termination of (b) (6), (b) (7)(C)' employment after it discovered (b) (6), (b) (7)(C)' overtime theft. Gopher respectfully requests that the Board dismiss (b) (6), (b) (7)(C)' charge in its entirety.

Sincerely,

STINSON LEONARD STREET, LLP



Richard W. Pins

RWP: (b) (6), (b) (7)(C)

Enclosures

PLANT OPERATIONS PERSONNEL EMPLOYEE HANDBOOK

A step ahead. The vision to be greater.



6505 Jewel Avenue
Tampa, Florida 33619

EXHIBIT A



The contents of this Plant Operations Employee Handbook are for general information and represent guidelines only. Gopher Resource reserves the right to amend, change, or terminate policies and procedures, whether contained in this handbook or not, at its sole discretion, with or without notice. This handbook, other Gopher Resource documents, and statements made by any company employee are not to be interpreted as guarantees of continued employment with Gopher Resource. The policies and procedures described in this Handbook do not constitute either a contract of employment or a contract between Gopher Resource and any of its employees to provide or to continue such policies and procedures.

Gopher Resource
6505 Jewel Avenue
Tampa, Florida 33619
813.620.3260
www.gopherresource.com

Regular Full-Time Employees are those who have completed the introductory phase of their employment and who are regularly scheduled to work (thirty-two) 32 or more hours within a seven-day period. Generally, they are eligible for the employer's benefit package, subject to the terms, conditions, and limitations of each benefit program.

Complete details on the Fair Labor Standards Act requirements for exempt or non-exempt status or the current category of a particular position can be obtained from a human resources representative.

Pay Periods

It is the policy of GR to pay employees by check or direct deposit on a weekly basis consistent with applicable federal, state, and local laws so that the amount, method, and timing of wage payments comply with any such laws or regulations. Pay period starts on Monday and ends Sunday. GR does its best to ensure that payroll is processed correctly, however, mistakes do happen. If an employee feels his/her pay check is incorrect, they should contact a human resources representative immediately. GR will work to resolve any issues that may arise with payroll processing, ensuring employees are paid for any compensation entitled.

GR is required to deduct applicable federal and/or state income tax, Social Security (FICA) tax, and Medicare tax from the gross wages of every employee. Employees must have a completed and signed federal and/or state withholding allowance certificate (Form W-4) on file. No other deductions will be made unless required or allowed by law, court order, or employee obligation. Employees may elect to have additional voluntary deductions withheld from their pay, such as, group insurance, savings and investment plans, etc. by written authorization.

Recording of Hours

All non-exempt (hourly) employees are required to record all hours worked. The method of record keeping is specified by the Company.

Employees are expected to accurately record the time they begin and end work, as well as the beginning and ending time of each break period. In the event that an employee fails to properly punch in or out, at any time, a supervisor should be asked to verify the arrival and/or departure time. Overtime work must be approved before it is performed and employees must have the supervisor who requested the overtime initial the overtime exception form.

Tampering, altering, or falsifying time records or recording time on another employee's time record may result in disciplinary action as per written rules and regulations.

Overtime

Non-exempt (hourly) employees are compensated for hours exceeding forty (40) in a work week. Compensation will be in the form of one and one-half time their normal hourly wage. Non-exempt employees must receive prior approval from their immediate supervisor before working overtime and the overtime hours must be reported through exception form reporting. The reporting of overtime is the responsibility of the employee. Pay for time not worked such as holiday pay, or vacation pay will not be included as hours worked for the purposes of computing overtime.

Vehicle Parking and Permitted Areas

A parking lot is provided for employees at no cost. Employees are to park in a uniform manner in the parking spaces provided. Personnel who park in unauthorized areas may have their vehicles towed at their expense.

GR does not assume the responsibility for the theft of, or from, or any damage to an individual's auto (or mode of transportation) while on Company premises. However, employees found stealing or damaging the property of fellow employees will be subject to discipline up to and including termination.

- Turn the room lights off when leaving a room that is not anticipated to be in use.

Code of Conduct

GR expects all employees while on Company time, business, and/or property to conduct themselves in a professional and ethical fashion and in accordance with all Company policies.

An employee "Code of Conduct" has been established and is necessary to protect the safety of all employees, to maintain professional, efficient customer service, and protect the Company's goodwill and property.

Inappropriate behavior that violates the employee code of conduct may be subject to disciplinary action, up to and including immediate termination.

Job Performance and Expectations

All employees are expected to conform to all standard operating procedures while performing respective job assignments. This includes but is not limited to: following set operational procedures, housekeeping, being at their job station, quality control, communications, safety and environmental procedures, and using good common sense.

The Company will evaluate poor work performance on an individual basis, taking into account the severity of the incident and the individual's history. Discipline will be administered based on the evaluation and could be as severe as suspension or termination of employment.

General Rules and Regulations

GR has prepared this partial list of rules and regulations to help employees understand what is expected by the Company. The following rules and regulations will set up a framework from which a working relationship can be formed. All employees must familiarize themselves with these rules and regulations and must agree to abide by them.

This section of rules and regulations is divided into two areas:

- I. Moderate Infractions
- II. Serious Infractions

I. MODERATE INFRACTIONS

Infraction of the following rules may result in:

First Offense:	Verbal warning will be issued in writing
Second Offense:	Written warning
Third Offense:	Final written warning and up to five (5) working day(s) suspension without pay
Fourth Offense:	Will result in termination of employment

An accumulation of a combination/variety of moderate infraction violations for the duration of employment will result in a suspension of up to three (3) working day(s). A fifth moderate infraction rule violation will result in termination of employment.

GOPHER RESOURCE EMPLOYEE HANDBOOK

First Offense: Final written warning with suspension of up to five (5) working day(s) without pay

Second Offense: Termination of employment

3. Being in an unauthorized area without permission

First Offense: Final written warning with suspension of up to five (5) working day(s) without pay

Second Offense: Termination of employment

4. Insubordination: (a) A refusal or failure to perform or follow directions or instructions of management unless such assignment would unreasonably endanger life or health of self or others; (b) The use of threatening, abusive, or profane language toward a member of management; (c) Acts of violence or threats toward a member of management or other employees; (d) Threatening, intimidating, coercing, interfering, or fighting with other employee on company premises.

First Offense: Final written warning with suspension of up to five (5) working day(s) without pay

Second Offense: Termination of employment

5. The use of threatening, abusive, or profane language toward another. Acts of violence or threats toward another. Threatening, intimidating, coercing, interfering, or fighting with another on Company premises.

First Offense: Termination of employment

6. Stealing, embezzlement, gambling, or dishonesty, unauthorized possession, or removal of Company property or property belonging to another employee

First Offense: Termination of employment

7. Having in possession or the use of drugs or alcohol on Company premises

First Offense: Termination of employment

8. Knowingly punching the timecard of another employee or unauthorized altering of timecard, resulting in the timecard showing more time than actually time worked

First Offense: Termination of employment

9. Walking off the job or leaving the plant area during work shift without management approval

First Offense: Termination of employment

10. Damage or destruction of Company property through willful act resulting in damage to Company property or damage to health/life of a fellow employee or self

First Offense: Termination of employment

11. Having any weapon inside any Company property not regulated by Florida state law

First Offense: Termination of employment

12. Not following facility security procedures including permitting access through emergency exits

First Offense: Final written warning with suspension of up to three (3) working day(s)

Second Offense: Termination of employment

Gopher Tampa Employee Report

Form # (b) (6), (b) (7)(C)

Type: **General Rules**

Employee Name [REDACTED]

Date Issued

(b) (6), (b) (7)(C)

/2015

Warning Step:

Termination**General Rule #**

Serious Infraction #8: 1. Knowingly punching the timecard of another employee or unauthorized altering of timecard, resulting in the timecard showing more time then actually time worked

First Offense: Termination of employment

Comments

On several occasions (b) (6), (b) (7)(C) the employee is seen changing into (b) (6), (b) (7)(C) uniform to clock in and then changing to street clothes and returning to the break room in (b) (6), (b) (7)(C) street clothes to sit in the break room for 45 minutes or an hour. The employee is then seen changing back into uniform and returning to the boot locker for the start of the shift.

Suspension☐ Yes ☒ No

Due to the violation of the above rule you are being terminated from employment at Gopher Resource Tampa effective immediately. All of your rights and an explanation of what is owed to you will be given by a Management Representative.

Signature of Employee: [REDACTED]

Date:

(b) (6), (b) (7)(C)

/15

(print employee name if unreadable)

(b) (6), (b) (7)(C)

Signature of Manager issuing warning: [REDACTED]

(b) (6), (b) (7)(C)

/15

(print manager name if unreadable)

(b) (6), (b) (7)(C)

Witness signature: [REDACTED]

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

/15

Comments:

(b) (6), (b) (7)(C) 2015

REDACTED

Warning Slip for (b) (6), (b) (7)(C)

EXHIBIT B

Gopher Tampa																																																									
Employment Termination Form																																																									
Employees Name	[REDACTED]																																																								
Department	RMPC																																																								
Last Day of Work?	(b) (6), (b) (7)(C) 2015																																																								
Termination Date?	(b) (6), (b) (7)(C) 2015																																																								
Hire Date?	(b) (6), (b) (7)(C)																																																								
Shift: days - B																																																									
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Created by (b) (6), (b) (7)(C) on (b) (6), (b) (7)(C) 2015 12:23 PM

Gopher Tampa Employee Report

Form # (b) (6), (b) (7)(C)

Type: **General Rules**

Employee Name [REDACTED]

Date Issued (b) (6), (b) (7)(C) 2015

Warning Step: **Termination**

General Rule # Serious Infraction #8: Knowingly punching the timecard of another employee or unauthorized altering of timecard, resulting in the timecard showing more time then actually time worked

Comments On several dates the employee is seen clocking in, and then changing into street clothes and leaving the site to clock out later. Timesheets and video of the employee confirm the infractions
Dates include: (b) (6), (b) (7)(C)

Suspension ☐ Yes ☒ No

Due to the violation of the above rule you are being terminated from employment at Gopher Resource Tampa effective immediately. All of your rights and an explanation of what is owed to you will be given by a Management Representative.

Signature of Employee:**Date:**

(print employee name if unreadable)

Signature of Manager issuing warning:

(print manager name if unreadable)

Witness signature:**Comments:**

This form must be returned to the Human Resource Department after it has been presented

(b) (6), (b) (7) 2015

Warning Slip for (b) (6), (b) (7)(C)

CONFIDENTIAL - FIELD AGENT EYES ONLY

and explained to the employee. Ask the employee to sign the form but it is not necessary to have it signed. If the employee refuses to sign note the time and date at the bottom of the form. The employee receives the second copy of the warning.

Gopher Tampa Employee Report

Form # (b) (6), (b) (7)(C)

Type: **General Rules**

Employee Name [REDACTED]

Date Issued

(b) (6), (b) (7)(C)

2015

Warning Step: **Termination**

General Rule # Serious Infraction #9:
Knowingly punching the timecard of another employee or unauthorized altering of timecard, resulting in the timecard showing more time than actually time worked

Comments Employee was seen on video on multiple occasions clocking in several hours before shift wearing street clothes and then leaving the premise. The employee would then return to work their shift and clock out, resulting in several additional hours being included each day.

Suspension ☐ Yes ☒ No

Due to the violation of the above rule you are being terminated from employment at Gopher Resource Tampa effective immediately. All of your rights and an explanation of what is owed to you will be given by a Management Representative.

Signature of Employee:

Date:

(print employee name if unreadable)

Signature of Manager issuing warning:

(print manager name if unreadable)

Witness signature:

Comments:

This form must be returned to the Human Resource Department after it has been presented

CONFIDENTIAL - FIELD AGENT EYES ONLY

and explained to the employee. Ask the employee to sign the form but it is not necessary to have it signed. If the employee refuses to sign note the time and date at the bottom of the form. The employee receives the second copy of the warning.



Title: HR/Payroll Assistant
Department: Human Resources

Exempt/Non-Exempt Status: ~~Exempt~~ *Non-Exempt*
Reports To: Human Resources Manager

Section 1. Position Purpose

The HR/Payroll Assistant provides support in various areas of human resources and is responsible for payroll processing.

Section 2. Education, Experience, and Skills

- College-level degree in human resources, communications, accounting or business administration, or course work in related subject and one to two years experience
- Excellent organizational and communication skills
- Working knowledge of payroll and communication skills
- Working knowledge of payroll and HRIS database

Section 3. Decision Making and Problem Solving

Problems generally relate to employees. Precedent, policy, legal, and company standards offer some guidance but some judgement is required in determining the appropriate course of action.

Section 4. Authority and Responsibility

- Payroll processing for salary and non-salary to include but not limited to the following
 - Verify entry of new hires and changes of employment status
 - Verify hours of overtime for hourly employees and process weekly payroll
 - Reconcile each payroll run before distributing paychecks
 - Process wage garnishments - receive, enter, maintain, and run reports
- Maintain attendance for hourly employees to include but not limited to tracking status, verifying absences and tardies, and assigning warning slips
- Participate in administrative staff meetings, new hire orientation, and other meetings and seminars
- Assist with recruiting and staffing - placing classified ads, screening, employment verification, and paperwork
- Create and maintain employee personnel records, including tracking system for verification and sick leave
- Provide customer service to employees by answering questions regarding payroll, policies, and procedures
- Administrate all employee recognition programs
- Facilitate monthly staff meeting
- Provide support with special projects, meal orders, and company events

- Complete employment verifications for employees as needed
- Unemployment paperwork - completing forms, submitting, tracking, and filing
- Ensure payroll deductions such as 401(k), and loans are entered and tracked in payroll with accuracy
- Other duties and tasks as assigned by management

Section 5. Interpersonal Relations and Contacts

The HR/Payroll Assistant is a resource to the organization. Contacts should be reflective on listening to needs, discussing options, and offering ideas and support.

Problems may involve issues between departments or with employees where thoughtful responses within defined parameters are appropriate.

Section 6. Working Conditions

Typical office environment:

(b) (6), (b) (7)(C)

Employee Signature: _____

(b) (6), (b) (7)(C)

b) (6), (b) (7)(C)

Supervisor/Manager Signature: _____

(b) (6), (b) (7)(C)

Date: _____



PERFORMANCE PLANNING AND APPRAISAL FORM

Name: (b) (6), (b) (7)(C)

Title: Human Resource Payroll Assistance

Department: HR

Date of Performance Planning Session: _____

Date of Mid-Year Progress Review: _____

Date of Year-End Appraisal Session: 1/2013

Instructions

Instructions for the Performance Planning and Appraisal Form and Process are as follows:

Planning

- This form should be completed in a performance planning session with your manager at the beginning of the performance year. This planning session may take place following your previous year's performance appraisal discussion or in a separate meeting following that discussion.
- At the planning session, you and your manager will review and discuss the key performance component, including how they specifically apply to your job and responsibilities over the coming year. Your manager also has the option to add to these key performance components in a couple of ways, to better fit your job and its requirements. As appropriate, these additions (described below) will be presented and discussed at this planning session.
 - Your manager may add a specific statement under one or more of the key performance components that describes a standard which is an important element of performance for that component in your job
 - In the event that there is a component of your job which doesn't fit or can't be easily measured through the existing set of key performance components, your manager also has the option to add a new performance component specific to your job to this form
- All performance components are weighted equally
- The planning session should occur by February 1 annually.

Development Action Plan

- Following the Year End Performance Appraisal and in preparation for the Planning session, employees are highly encouraged to draft their Development Action Plan (DAP). The DAP is a tool designed to work with the Performance Appraisal and Professional Goals in guiding you to continuous improvement through education, training, and a focused approach to your development.

Mid-Year Progress Review

- You and your manager will meet mid-year to discuss your progress to date against the key performance components (including any additional standards or performance components that were added to your form). This discussion will be documented on your performance form in the way of comments, not with formal ratings.
- This mid-year progress review session should take place between June 1 and July 31

Year End Performance Appraisal

- You meet with your manager for a formal year-end appraisal of your actual performance.
- This performance appraisal session should take place no later than January 20.

Additional detail on the standards for the key performance components is available in the Supplement to the Performance Planning and Appraisal Form (a separate document).

Part 1: Key Performance Components

Key Performance Components describe the elements of performance common to all jobs at the Company. Under each component, there is a description of the Company performance standard (at "Meets Standards") for that component. As desired, you may reference the Supplement to the Performance Planning and Appraisal Form (a separate document) for more detailed descriptions of the standards for each key performance component. At the performance planning session, the manager may also add one or more standards specific to the job. There are spaces for comments at the Mid-Year Progress Check and the Year-End Appraisal, as well as a final rating (using scale at bottom of page).

Note that at the end of this section, there is a space for an optional additional Performance Component, as appropriate.

Judgment and Decisiveness

Company Standard: Makes appropriate decisions considering the best available information and within the appropriate timeframe. Decisions show high standards of honesty, professionalism, ethical behavior, consideration of pros and cons and the consequences for self and others. Knows when to make decisions personally, and when to defer the decision making to another person.

Additional Standard(s) Specific to Position:

Mid-Year Progress Check – Comments:

Year-End Comments:

(b) (6), (b) (7)(C) has demonstrated in past year the ability to make the correct decisions on a moment notice. (b) (6), (b) (7)(C) looks at all the facts and quickly resolves any issue that is presented. Every decision (b) (6), (b) (7)(C) makes displays honesty, professionalism and ethical behavior. (b) (6), (b) (7)(C) is aware when (b) (6), (b) (7)(C) has to get management involve to resolve an issue.

Rating

3.0

Teamwork and Relationships

Company Standard: Relates well to others both inside and outside the Company. Works to create long-term relationships that are mutually valuable for company and self. Uses diplomacy and tact when called for. Shares needed information and resources. Contributes to team projects by taking part in meetings, completing assigned tasks on time, and helping others as needed. Supports co-workers by showing them how to do things differently/correctly, as opposed to simply "telling on them".

Additional Standard(s) Specific to Position:

Mid-Year Progress Check – Comments:

Year-End Comments:

(b) (6), (b) (7)(C) relates well with everyone across the organization. (b) (6), (b) (7)(C) customers (plant employees) look up to (b) (6), (b) (7)(C) for advice and guidance. (b) (6), (b) (7)(C) manages the (b) (6), (b) (7)(C) with diplomacy and tact. The service (b) (6), (b) (7)(C) provides employees and supervisors meets my expectations as (b) (6), (b) (7)(C) manager. During this year, (b) (6), (b) (7)(C) has become an important part of the (b) (6), (b) (7)(C).

Rating

3.0

Learning and Initiative

Company Standard: A quick learner and self-starter. Does not wait to be told what to do. Offers to assist others when they need help and is willing to support/help peers when needed. Willingly pursues development and self-improvement and learns from successes and failures. Looks for ways that things can work instead of reasons why they cannot.

Additional Standard(s) Specific to Position:

Mid-Year Progress Check – Comments:

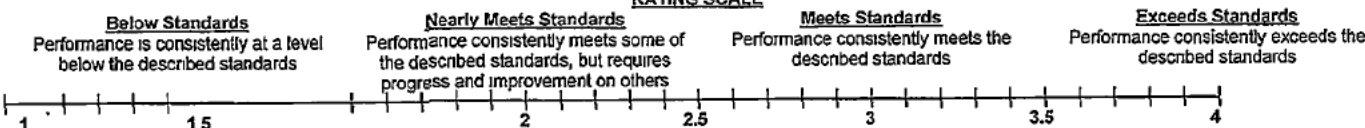
Year-End Comments:

(b) (6), (b) (7)(C) position has required (b) (6), (b) (7)(C) to learn a lot about the (b) (6), (b) (7)(C) in a short timeframe. (b) (6), (b) (7)(C) has taken upon (b) (6), (b) (7)(C) to take (b) (6), (b) (7)(C) classes, include work studies of our organization in (b) (6), (b) (7)(C). Almost every day (b) (6), (b) (7)(C) comes into my office asking questions to make sure (b) (6), (b) (7)(C) understands an (b) (6), (b) (7)(C) topic. If at any point (b) (6), (b) (7)(C) finds something difficult, (b) (6), (b) (7)(C) tries to find ways to resolve and make it easier for next time. (b) (6), (b) (7)(C) has a positive outlook on things and this helps (b) (6), (b) (7)(C) continue to grow.

Rating

3.5

RATING SCALE



Part 1: Key Performance Components (continued)

Communication

Company Standard: Can communicate clearly Participates effectively in meetings; actively and attentively listens to others, speaks at the appropriate time. Communicates with all internal and external contacts in a positive, professional manner, and understands our employees are our most valuable asset Writing is concise and understandable, using appropriate grammar, punctuation, style, and structure

Additional Standard(s) Specific to Position:

Mid-Year Progress Check – Comments:

Year-End Comments:

(b) (6), (b) (7)(C) displays great communication skills verbally and written (b) (6), (b) emails are detailed, clear and professional.

Rating

3.3

Customer Driven Focus (Internal and External)

Company Standard: Recognizes both internal and external customers, and is dedicated to meeting their expectations. Addresses customer needs quickly and directly, or connects them with a Company representative that can better serve them. Treats customers as partners in our business Regularly asks customers for feedback Gains customer trust and respect

Additional Standard(s) Specific to Position:

Mid-Year Progress Check – Comments:

Year-End Comments:

(b) (6), (b) (7)(C) recognizes who are (b) (6), (b) internal and external customers and works everyday to make sure (b) (6), (b) meets their expectations. (b) (6), (b) (7)(C) goal everyday is to meet (b) (6), (b) customers' expectations. (b) (6), (b) primary function in the (b) (6), (b) department is to service our customers. (b) (6), (b) serves them every day with respect, understanding and dedication. (b) (6), (b) does a great job managing the employee window and their expectations.

Rating

3.4

Creativity and Vision

Company Standard: Comes up with new ideas in the workplace, never rests on past achievements. Able to see things in the longer-term; grasps issues and needs that are bigger and longer range than those on the surface. Focuses on researching, developing, and applying new technologies emphasizing continuous improvement in areas of the business. Makes original and helpful contributions in brainstorming sessions

Additional Standard(s) Specific to Position:

Mid-Year Progress Check – Comments:

Year-End Comments:

The (b) (6), (b) Team is a department that continues to find ways to serves our customers' needs (b) (6), (b) (7)(C) is always coming up with great ideas to make this better and easier for everyone. (b) (6), (b) has the same vision as I do. Making sure that our employees are happy with the (b) (6), (b) service. In everything (b) (6), (b) does (b) (6), (b) has in mind that we are here to make sure Tampa stays union free.

Rating

3.4

Getting Results

Company Standard: Works toward being the "industry model" every day, obtaining results whether working independently, through subordinates, through co-workers, or through parties outside the Company (e.g., vendors or consultants), as responsibilities demand Sets priorities and allocates time and resources appropriately. Stays with a plan of action until the desired result is achieved, remaining faithful to commitments

Additional Standard(s) Specific to Position:

Mid-Year Progress Check – Comments:

Year-End Comments:

Everyday (b) (6), (b) (7)(C) sets goals for (b) (6), (b) (7)(C) and works towards meeting those goals. (b) (6), (b) (7) is very conscious of timelines and deadlines. (b) (6), (b) (7) works very hard not to miss any deadline and follow projects timelines (b) (6), (b) (7) understands about priorities, allocating time and resource accordingly.

Rating

3.1

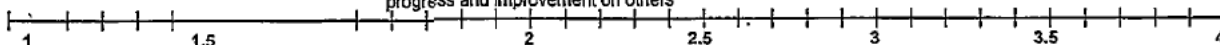
RATING SCALE

Below Standards
Performance is consistently at a level below the described standards

Nearly Meets Standards
Performance consistently meets some of the described standards, but requires progress and improvement on others

Meets Standards
Performance consistently meets the described standards

Exceeds Standards
Performance consistently exceeds the described standards



Part 1: Key Performance Components (continued)**Workplace and Environmental Safety (For Operations Positions Only)**

Company Standard: Follows the Company guidelines to ensure a clean operation and a safe environment. Calls attention to safety issues and environmental hazards, offers suggestions for improvements. Meets or exceeds all environmental regulations. Attends monthly safety meetings to ensure our employees are trained and equipped.

Additional Standard(s) Specific to Position:

Mid-Year Progress Check – Comments:

Year-End Comments:

Rating

Managing Others (For Positions with Supervisory Responsibilities Only)

Company Standard: Effectively delegates responsibility, establishing clear direction and priorities for employees. Uses performance management process to communicate work standards and to measure and recognize results. Understands success depends on the relationship with our employees, our customers, and the community at large. Faces up to people problems quickly and directly, is not afraid to take corrective action when necessary.

Additional Standard(s) Specific to Position:

Mid-Year Progress Check – Comments:

Year-End Comments:

Rating

Optional Additional Performance Component

The space below is provided for an optional additional performance component, to be added at the time of the performance planning session, in the event that there is a part of this employee's job that is not sufficiently addressed by the existing set of key performance components. Creating an additional performance component involves these steps:

- Give the component a name and record this name in the appropriate space (below)
- Describe the standard for performance for this component as specifically as possible in the appropriate space (below)
- Continue to use and treat this component in the same manner as the other key performance components (note that all components are weighted equally in the year-end appraisal)

Component Name:

Company Standard:

Mid-Year Progress Check – Comments:

Year-End Comments:

Rating

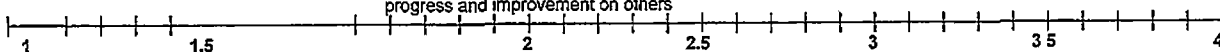
RATING SCALE

Below Standards
Performance is consistently at a level below the described standards

Nearly Meets Standards
Performance consistently meets some of the described standards, but requires progress and improvement on others

Meets Standards
Performance consistently meets the described standards

Exceeds Standards
Performance consistently exceeds the described standards



Part 2: Overall Performance Assessment

Use the table below to enter weights and rating scores from the key performance components, calculate the "weighted rating" by multiplying the weight (expressed as a decimal) times the rating for each component, and then sum all of the weighted ratings to arrive at the overall performance rating. Note that the key performance components used should be equally weighted and total 100%.

For example, if all ten components were utilized each component would be weighted at 10% (or .10)

Then, for example, if the rating for "Judgment and Decisiveness" is 3.5, the calculation for that component would be as follows
 $0.10 \text{ (weight)} \times 3.5 \text{ (rating)} = 0.35 \text{ (weighted rating)}$

Use the salary increase guidelines to determine the recommended salary increase % based on overall performance rating and position in salary range. There are places for final overall comments, both for the employee and the evaluator, as well as signature spaces for all three sessions (planning, mid-year and final appraisal) below

Key Performance Components: Performance Rating Calculation			
	Weight	X Rating	= Weighted Rating
Judgment and Decisiveness		3.0	
Teamwork and Relationships		3.0	
Learning and Initiative		3.5	
Communication		3.3	
Customer Driven Focus (Internal and External)		3.4	
Creativity and Vision		3.4	
Getting Results		3.1	
Workplace and Environmental Safety (if applicable)		0	
Managing Others (if applicable)		0	
Additional Optional Component (specify if applicable)			
Total – Overall Performance Rating		100%	3.2

Recommended % Salary Increase

<u>Below Standards</u>	<u>Nearly Meets Standards</u>	<u>Meets Standards</u>	<u>Exceeds Standards</u>
1.00 – 1.59	1.60 – 2.59	2.60 – 3.59	3.60 – 4.00

Overall/Additional Evaluator Comments

(b) (6), (b) (7)(C) came into my department during a moment of change and (b) (6), (b) (7)(C) quickly assisted in the areas that needed help. During this year there has been a number of changes to the (b) (6), (b) (7)(C) team and (b) (6), (b) (7)(C) continues to adapt to the changes and keep things moving efficiently. (b) (6), (b) (7)(C) strength and good judgment has been two of (b) (6), (b) (7)(C) strongest attributes this year.

Overall/Additional Employee Comments

Signatures		
Performance Planning Session	Mid-Year Progress Review	Year-End Performance Appraisal
Employee signature and date*	Employee signature and date*	(b) (6), (b) (7)(C) (b) (6), (b) (7)(C) 1/29/13
Evaluator signature and date	Evaluator signature and date	(b) (6), (b) (7)(C) (b) (6), (b) (7)(C) 1/29/13

*Employee signature indicates that this document and the information contained within it has been discussed.



PERFORMANCE APPRAISAL FORM

Name: (b) (6), (b) (7)(C)

Title: (b) (6), (b) (7)(C)

Department: (b) (6), (b) (7)(C)

Manager: (b) (6), (b) (7)(C)

Date of Year-End Appraisal Session: 02/01/14

Instructions

Instructions for the Performance Planning and Appraisal Form and Process are as follows:

Year End Performance Appraisal

- Managers should send the Performance Appraisal Form to each of their direct reports asking them to submit feedback on their performance in the Employee Comments section of Business Results, Success Factors and Overall Performance areas no later than January 24th.
- Managers should enter their feedback in the Manager Comments section and select a rating in the Business Results section and each Success Factor.
- Use the Overall Performance Calculator (a separate Excel document) to determine the recommended overall rating. Reminder that this is a recommendation and managers may still use their discretion to set the overall performance rating.
 - The Business Results section carries a 50% weight towards the overall rating and the remaining 50% is divided equally across each success factor.
- Select the final performance rating for the employee in the space provided below and enter any summary comments regarding the employee's performance.
- Managers should review their assessments with employees no later than the end of February.

Additional detail on the standards for the key performance components is available in the Supplement to the Performance Planning and Appraisal Form at the bottom of this document.

Part 1: Business Results

The Business Results section is your assessment of employee's contribution to the company and department target goals. Your assessment in this section should be focused on results that the employee was able to significantly influence through their performance.

Employee Comments:

One of my biggest contributions to company goals was to assist with the transition from (b) (6), (b) (7)(C) to (b) (6), (b) (7)(C). My department contribution was concentrating more on (b) (6), (b) (7)(C) in an effort to promote a more positive work environment between hourly employees and supervisors. I accomplished this by doing more coaching with supervisors that has resulted in more favorable resolutions with employees.

Manager Comments:

(b) (6), (b) (7)(C) transitioned the company from (b) (6), (b) (7)(C) to (b) (6), (b) (7)(C). At first (b) (6), (b) (7)(C) had a difficult time embracing the transition and managing the system. Once (b) (6), (b) (7)(C) started to learn about the system and understanding it, (b) (6), (b) (7)(C) did a better job processing (b) (6), (b) (7)(C). One of the things that (b) (6), (b) (7)(C) must continue to work on is finding resolutions to an issue instead concentrating on the issue. During the 3rd quarter of the year, (b) (6), (b) (7)(C) began to work with (b) (6), (b) (7)(C) issues. (b) (6), (b) (7)(C) continues to learn and understand how to deal with different incidents.

Rating
3

Part 2: Success Factors

Success Factors define the knowledge, skills, and attitudes that are demonstrated through behaviors, and are transferable to a different job. They describe the behaviors demonstrated to achieve the goals and objectives. Under each Success Factor, there is a description of the Company performance standard (at "Meets Standards") for that component. As desired, you may reference the Supplement to the Performance Planning and Appraisal Form (at the bottom of this document) for more detailed descriptions of the standards for each Success Factor.

Judgment and Decisiveness

Company Standard: Makes appropriate decisions considering the best available information and within the appropriate timeframe. Decisions show high standards of honesty, professionalism, ethical behavior, consideration of pros and cons and the consequences for self and others. Knows when to make decisions personally, and when to defer the decision making to another person.

Employee Comments:

I believe my greatest improvement in this area has been in the area of (b) (6), (b) (7)(C). There have been several circumstances this year where my application of good judgement has resulted in favorable resolutions with employees. Additionally, I have become more familiar with the employee handbook which has helped me make better decisions involving employees matters.

Manager Comments:

One of (b) (6), (b) (7)(C) strongest area is the ability to make good decisions and applying good judgment. In (b) (6), (b) (7)(C) new area of responsibility (b) (6), (b) (7)(C) must continue to look at the entire picture when make a decision and use good judgment by looking at the pros and cons and consequences of (b) (6), (b) (7)(C) decision.

Rating
3.5

Teamwork and Relationships

Company Standard: Relates well to others both inside and outside the Company. Works to create long-term relationships that are mutually valuable for company and self. Uses diplomacy and tact when called for. Shares needed information and resources. Contributes to team projects by taking part in meetings, completing assigned tasks on time, and helping others as needed. Supports co-workers by showing them how to do things differently/correctly, as opposed to simply "telling on them".

Employee Comments:

I believe my best skills/attributes in in this area. In addition to working well with the (b) (6), (b) (7)(C) teams (Tampa and Eagan), With the solid and trusting relationships I have formed with the Tampa supervisors, I have seen an improvement in their write-ups and involvement in the new payroll system.

Manager Comments:

During the course of 2013, there have been a few incidents that (b) (6), (b) (7)(C) approach to things could have been misunderstood. It is important that as (b) (6), (b) (7)(C) we always keep our personal feelings aside from our business interactions. Beside those few incidents, (b) (6), (b) (7)(C) relationship with the plant employees and office staff is good.

Rating
3

Learning and Initiative

Company Standard: A quick learner and self-starter. Does not wait to be told what to do. Offers to assist others when they need help and is willing to support/help peers when needed. Willingly pursues development and self-improvement and learns from successes and failures. Looks for ways that things can work instead of reasons why they cannot.

Employee Comments:

I am a quick learner and self-starter and offer help to others when needed. To increase my knowledge with our new (b) (6), (b) (7)(C) system. I have begun taking some of the tutorials provided. In addition to pursuing (b) (6), (b) (7)(C) I am registering classes on line to increase my knowledge in the areas of (b) (6), (b) (7)(C) etc.

Manager Comments:

(b) (6), (b) (7)(C) has room to improve in this area. In 2013 on of (b) (6), (b) (7)(C) goal was to take classes to increase (b) (6), (b) (7)(C) knowledge of the different laws in (b) (6), (b) (7)(C) the impact of area of responsibility. (b) (6), (b) (7)(C) has good intension to learn but has a hard time carry thing it through. (b) (6), (b) (7)(C) is a field on continues learning and it is important not only for (b) (6), (b) (7)(C) to create a plan but also to execute it.

Rating
2.5

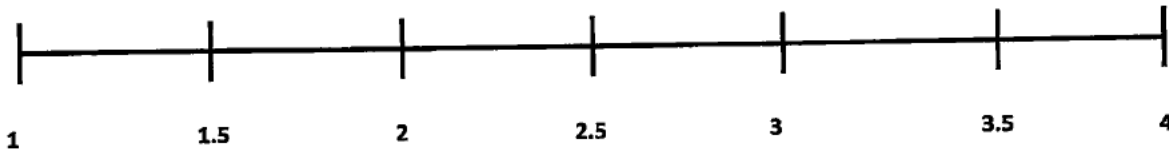
RATING SCALE

Below Standards
Performance is consistently at a level below the described standards

Nearly Meets Standards
Performance consistently meets some of the described standards, but requires progress and improvement on others

Meets Standards
Performance consistently meets the described standards

Exceeds Standards
Performance consistently exceeds the described standards



Part 2: Success Factors (continued)**Communication**

Company Standard: Can communicate clearly. Participates effectively in meetings, actively and attentively listens to others, speaks at the appropriate time. Communicates with all internal and external contacts in a positive, professional manner, and understands our employees are our most valuable asset. Writing is concise and understandable, using appropriate grammar, punctuation, style, and structure.

Employee Comments:

My communication skills are excellent both verbally and through written communication. Over the last several months through the many coaching opportunities I have had, my listening skills have improved.

Manager Comments:

(b) (6), (b) (7)(C) has great communication skills. One area that (b) (6), (b) (7)(C) must continue to work on is (b) (6), (b) (7)(C) listening skills, but (b) (6), (b) (7)(C) is improving.

3.5 Rating

Customer Driven Focus (Internal and External)

Company Standard: Recognizes both internal and external customers, and is dedicated to meeting their expectations. Addresses customer needs quickly and directly, or connects them with a Company representative that can better serve them. Treats customers as partners in our business. Regularly asks customers for feedback. Gains customer trust and respect.

Employee Comments:

I address the needs of both internal and external customers in a timely fashion.

Manager Comments:

During the course of 2013, there had been a number of incidents where internal and external customers did not receive a responds in a timely manner. It's understood that we were under a lot of pressure with (b) (6), (b) (7)(C) but in is important that we improve in getting to our customers with in 48 hours of a request.

3 Rating

Creativity and Vision

Company Standard: Comes up with new ideas in the workplace, never rests on past achievements. Able to see things in the longer-term, grasps issues and needs that are bigger and longer range than those on the surface. Focuses on researching, developing, and applying new technologies emphasizing continuous improvement in areas of the business. Makes original and helpful contributions in brainstorming sessions.

Employee Comments:

I don't believe my current positions allows me the opportunity to develop and/or apply new ideas.

Manager Comments:

Even though (b) (6), (b) (7)(C) is regulated by laws and policies, there is always ways of being created and having a vision. In (b) (6), (b) (7)(C) area, (b) (6), (b) (7)(C) must find ways to better serve (b) (6), (b) (7)(C) customer, train and teach in the area of (b) (6), (b) (7)(C). Look at things that create an issue or a bottle neck and find ways to correct those issue through creativity by reasearching, benchmarking and developing new ways. In the (b) (6), (b) (7)(C) field the next step as a (b) (6), (b) (7)(C) professional is to be innovated, created, a visionary.

2.5 Rating

Getting Results

Company Standard: Works toward being the "industry model" every day, obtaining results whether working independently, through subordinates, through co-workers, or through parties outside the Company (e.g., vendors or consultants), as responsibilities demand. Sets priorities and allocates time and resources appropriately. Stays with a plan of action until the desired result is achieved, remaining faithful to commitments.

Employee Comments:

With the implementation of the new (b) (6), (b) (7)(C) system last year I had a few bumps in the road, however, through those experiences I believe that I have learned how to set better plan of action for myself and allocate the time necessary to fulfill them.

Manager Comments:

Click here to enter text.

2.5 Rating

Workplace and Environmental Safety (For Operations Positions Only)

Company Standard: Follows the Company guidelines to ensure a clean operation and a safe environment. Calls attention to safety issues and environmental hazards, offers suggestions for improvements. Meets or exceeds all environmental regulations. Attends monthly safety meetings to ensure our employees are trained and equipped.

Employee Comments:

Click here to enter text.

Manager Comments:

Click here to enter text.

Rating
Select

	Rating
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RATING SCALE

<p><u>Below Standards</u> Performance is consistently at a level below the described standards</p>	<p><u>Nearly Meets Standards</u> Performance consistently meets some of the described standards, but requires progress and improvement on others</p>	<p><u>Meets Standards</u> Performance consistently meets the described standards</p>	<p><u>Exceeds Standards</u> Performance consistently exceeds the described standards</p>
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Managing Others (For Positions with Supervisory Responsibilities Only)

Company Standard: Effectively delegates responsibility, establishing clear direction and priorities for employees. Uses performance management process to communicate work standards and to measure and recognize results. Understands success depends on the relationship with our employees, our customers, and the community at large. Faces up to people problems quickly and directly; is not afraid to take corrective action when necessary.

Employee Comments:

Click here to enter text.

Manager Comments:

Click here to enter text.

Rating
Select
Rating

Part 3: Overall Performance Assessment

Use the Overall Performance Calculator (a separate Excel document) in order to determine the overall weighted average for the combined Business Results and Success Factors Section. (50%/50%)

Weighted Numeric Rating

3.0

Recommended Rating Scale

Below Standards	Nearly Meets Standards	Meets Standards	Exceeds Standards
1.00 – 1.59	1.60 – 2.59	2.60 – 3.59	3.60 – 4.00

Final Performance Rating

Meets Standards

Overall/Additional Evaluator Comments:

Click here to enter text.

Overall/Additional Employee Comments:

Click here to enter text.

Signatures

Employee signature and date*

(b) (6), (b) (7)(C)

2/26/14

Evaluator signature and date

(b) (6), (b) (7)(C)

2-26-14

*Employee signature indicates that this document and the information contained within it has been discussed.



PERFORMANCE APPRAISAL FORM

Name: (b) (6), (b) (7)(C)

Title: (b) (6), (b) (7)(C)

Department: (b) (6), (b) (7)(C)

Manager: (b) (6), (b) (7)(C)

Date of Year-End Appraisal Session: 2014

Instructions

Instructions for the Performance Planning and Appraisal Form and Process are as follows:

Year End Performance Appraisal

- Managers should send the Performance Appraisal Form to each of their direct reports asking them to submit feedback on their performance in the Employee Comments section of Business Results, Success Factors and Overall Performance areas and returned no later than January 9th. In addition, if there are other stakeholders that would have insight into the performance of your employee you should solicit their feedback at this time as well.
- Managers should enter their feedback in the Manager Comments section and select a rating in the Business Results section and each Success Factor.
- Use the Overall Performance Calculator (a separate Excel document) to determine the recommended overall rating. Reminder that this is a recommendation and managers may still use their discretion to set the overall performance rating.
 - The Business Results section carries a 50% weight towards the overall rating and the remaining 50% is divided equally across each success factor.
- Select the final performance rating for the employee in the space provided below and enter any summary comments regarding the employee's performance.
- Managers should review their assessments with employees no later than the end of February 13th.

Additional detail on the standards for the key performance components is available in the Supplement to the Performance Planning and Appraisal Form at the bottom of this document.

Part 1: Business Results

The Business Results section is your assessment of employee achievement against the business goals established in the Short-Term Incentive Plan (STIP) and documented in the Excel STIP document. As the STIP includes both common (company/department) wide goals and individual goals, your assessment in this section should be focused on results that the employee was able to significantly influence through their performance.

Employee Comments:

I did not successfully meet all the criteria set for me in this area. The only improvements that were accomplished was helping managers to understand the time management system. Although I did not present the training I developed a power point that was presented to supervisors. I also worked on continuing to understand the (b) (6), (b) (7)(C) system, and have developed in this area (i.e. vacation audits, overtime reports).

Manager Comments:

I agree with (b) (6), (b) (7)(C) statement. (b) (6), (b) (7) did not meet all the Goals that were set on (b) (6), (b) (7) STIP. When reviewing (b) (6), (b) (7) STIP for 2014, opportunities missed were discussed.

Rating
2

Part 2: Success Factors

Success Factors define the knowledge, skills, and attitudes that are demonstrated through behaviors, and are transferable to a different job. They describe the behaviors demonstrated to achieve the goals and objectives. Under each Success Factor, there is a description of the Company performance standard (at "Meets Standards") for that component. As desired, you may reference the Supplement to the Performance Planning and Appraisal Form (at the bottom of this document) for more detailed descriptions of the standards for each Success Factor.

Judgment and Decisiveness

Company Standard: Makes appropriate decisions considering the best available information and within the appropriate timeframe. Decisions show high standards of honesty, professionalism, ethical behavior, consideration of pros and cons and the consequences for self and others. Knows when to make decisions personally, and when to defer the decision making to another person.

Employee Comments:

I have continued to improve handling/resolving (b) (6), (b) (7)(C) matters. More specifically, to make sure that fairness is demonstrated toward the employee, while keeping the values and policies of the company. I have improved in my ability to make sound decisions to provide recommendations to the (b) (6), (b) (7)(C) Manager.

Manager Comments:

(b) (6), (b) (7)(C) has always displayed a strong ability to make decisions with the information at hand or request assistance to ensure the best decisions are made.

Rating
3.5

Teamwork and Relationships

Company Standard: Relates well to others both inside and outside the Company. Works to create long-term relationships that are mutually valuable for company and self. Uses diplomacy and tact when called for. Shares needed information and resources. Contributes to team projects by taking part in meetings, completing assigned tasks on time, and helping others as needed. Supports co-workers by showing them how to do things differently/correctly, as opposed to simply "telling on them".

Employee Comments:

Building relationships and working as a team player I believe continue to be one of my stronger attributes. My relationship with department supervisors is stronger than last year, and oftentimes supervisors seek my opinion on how to deal with problematic employees. My continuous support to supervisors with the time management system has resulted in about a 90% improvement in approving timesheets in a timely manner. In addition, my relationships with the Eagan (b) (6), (b) (7)(C) team have improved.

Manager Comments:

(b) (6), (b) (7)(C) has a give when it comes to establishing relationships with (b) (6), (b) (7)(C) internal and external customers. The management team reaches out to (b) (6), (b) (7)(C) when they need assistance in a number of areas. The relationship (b) (6), (b) (7)(C) has with the plant employee is (b) (6), (b) (7)(C) greatest contribution to the (b) (6), (b) (7)(C) Team success.

Rating
3.5

Learning and Initiative

Company Standard: A quick learner and self-starter. Does not wait to be told what to do. Offers to assist others when they need help and is willing to support/help peers when needed. Willingly pursues development and self-improvement and learns from successes and failures. Looks for ways that things can work instead of reasons why they cannot.

Employee Comments:

I have not been as assertive in this area as I could have been. I am working to improve taking the initiative in presenting resolution to areas involving payroll. Additionally, I have not been able to learn the

system (b) (6), (b) (7)(C) as I would have liked. I am also looking to resolve this matter as well.

Manager Comments:

2014 was a lost opportunity for (b) (6), (b) (7)(C) in the area of learning and taking initiative in developing ways to improve the (b) (6), (b) (7)(C) process

Rating
2

RATING SCALE

Below Standards
Performance is consistently at a level below the described standards

Nearly Meets Standards
Performance consistently meets some of the described standards, but requires progress and improvement on others

Meets Standards
Performance consistently meets the described standards

Exceeds Standards
Performance consistently exceeds the described standards



Part 2: Success Factors (continued)**Communication**

Company Standard: Can communicate clearly. Participates effectively in meetings; actively and attentively listens to others, speaks at the appropriate time. Communicates with all internal and external contacts in a positive, professional manner, and understands our employees are our most valuable asset. Writing is concise and understandable, using appropriate grammar, punctuation, style, and structure.

Employee Comments:

My communication skills are excellent verbal and written with both our internal and external customers.

Manager Comments:

I agree with (b) (6), (b) (7)(C) statement.

Rating
3.5

Customer Driven Focus (Internal and External)

Company Standard: Recognizes both internal and external customers, and is dedicated to meeting their expectations. Addresses customer needs quickly and directly, or connects them with a Company representative that can better serve them. Treats customers as partners in our business. Regularly asks customers for feedback. Gains customer trust and respect.

Employee Comments:

I effectively address the needs of our internal and external customers. However, I believe I could improve on meeting their needs in a more timely fashion.

Manager Comments:

(b) (6), (b) (7)(C) follow-up at times was delayed. At times (b) (6), (b) (7)(C) would miss deadlines and did not meet expectations.

Rating
2.5

Creativity and Vision

Company Standard: Comes up with new ideas in the workplace; never rests on past achievements. Able to see things in the longer-term; grasps issues and needs that are bigger and longer range than those on the surface. Focuses on researching, developing, and applying new technologies emphasizing continuous improvement in areas of the business. Makes original and helpful contributions in brainstorming sessions.

Employee Comments:

In the past I felt my position did not allow me the opportunity to be creative. I now feel differently and know I need to think out of the box by developing more effective ways for employees to interact/learn the (b) (6), (b) (7)(C) system through offered trainings, one-on-one with supervisors, etc.

Manager Comments:

(b) (6), (b) (7)(C) creativity surfaced when it came to employee engagement and initiatives. During 2014 (b) (6), (b) (7)(C) was thinking outside the box to ensure we understood what was going on with employee's moral

Rating
3

Getting Results

Company Standard: Works toward being the "industry model" every day; obtaining results whether working independently, through subordinates, through co-workers, or through parties outside the Company (e.g., vendors or consultants), as responsibilities demand. Sets priorities and allocates time and resources appropriately. Stays with a plan of action until the desired result is achieved, remaining faithful to commitments.

Employee Comments:

Improvement in this area is definitely necessary.

Manager Comments:

The overall results for 2014 was up and down. This year performance lacked constituency.

Rating
2

Workplace and Environmental Safety (For Operations Positions Only)

Company Standard: Follows the Company guidelines to ensure a clean operation and a safe environment. Calls attention to safety issues and environmental hazards, offers suggestions for improvements. Meets or exceeds all environmental regulations. Attends monthly safety meetings to ensure our employees are trained and equipped.

Employee Comments:

Click here to enter text.

Manager Comments:

Click here to enter text.

Rating
Select
Rating

RATING SCALE**Below Standards**

Performance is consistently at a level below the described standards

Nearly Meets Standards

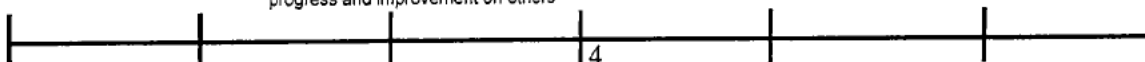
Performance consistently meets some of the described standards, but requires progress and improvement on others

Meets Standards

Performance consistently meets the described standards

Exceeds Standards

Performance consistently exceeds the described standards



Managing Others (For Positions with Supervisory Responsibilities Only)

Company Standard: Effectively delegates responsibility, establishing clear direction and priorities for employees. Uses performance management process to communicate work standards and to measure and recognize results. Understands success depends on the relationship with our employees, our customers, and the community at large. Faces up to people problems quickly and directly; is not afraid to take corrective action when necessary.

Employee Comments:

Click here to enter text.

Manager Comments:

Click here to enter text.

Rating
Select
Rating

Part 3: Overall Performance Assessment

Use the Overall Performance Calculator (a separate Excel document) in order to determine the overall weighted average for the combined Business Results and Success Factors Section. (50%/50%)

Weighted Numeric Rating

2.6

Recommended Rating Scale

<u>Below Standards</u>	<u>Nearly Meets Standards</u>	<u>Meets Standards</u>	<u>Exceeds Standards</u>
1.00 – 1.59	1.60 – 2.59	2.60 – 3.59	3.60 – 4.00

Final Performance Rating

Meets Standards

Overall/Additional Evaluator Comments:

Click here to enter text.

Overall/Additional Employee Comments:

Click here to enter text.

Signatures

En (b) (6), (b) (7)(C)	2/26/15
Employee Signature and Date (b) (6), (b) (7)(C)	2/26/15

*Employee signature indicates that this document and the information contained within it has been discussed.

Tews, Matthew

From: (b) (6), (b) (7)(C)
Sent: Friday, August 22, 2014 9:14 AM
To: (b) (6), (b) (7)(C)
Subject: RE: Tomorrow

I did not but I can ask (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

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(b) (6), (b) (7)(C) • Fax 813-744-5054 • 813-620-3260
Cell (b) (6), (b) (7)(C)



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From: (b) (6), (b) (7)(C)
Sent: Friday, August 22, 2014 10:10 AM
To: (b) (6), (b) (7)(C)
Subject: RE: Tomorrow

In the discussion did you get a sense for the time involved with the items below? Not necessarily the exact hours associated with the, but directionally which are the really time consuming activities and roughly how much time (or what % of (b) (6), (b) (7)(C) time) is taken up by them?

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) • Fax 651-405-6410 • 800-354-7451
Cell (b) (6), (b) (7)(C)



From: (b) (6), (b) (7)(C)
Sent: Friday, August 22, 2014 7:59 AM
To: (b) (6), (b) (7)(C)
Subject: RE: Tomorrow

(b) (6), (b) (7)(C)

Here is the information I got from (b) (6), (b) (7)(C) Besides processing (b) (6), (b) (7)(C) does these other related items:

1. Child Support – (90% of our employee are on child support)
2. Garnishes
3. Wage Increases (our employees get increase yearly at their anniversary
4. Bonus payout – admin and plant
5. Bloodlead – every two months
6. Cell phone reimbursement
7. Health Club reimbursement
8. Schedule changes
9. Entering new hires
10. Termination of employees
11. Personnel changes
12. Work Comp 13 weeks wage statement – we have lot of cases
13. Approval/fixing of vacation and timesheet – when supervisor are unable to do
14. Bereavement, jury duty, FMLA – enter into the system

Sorry for the delay. We can meet this afternoon to discuss further.

(b) (6), (b) (7)(C)

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From: (b) (6), (b) (7)(C)
Sent: Thursday, August 21, 2014 5:19 PM
To: (b) (6), (b) (7)(C)
Subject: Tomorrow

(b) (6), (b) (7)(C)

Do you want to connect tomorrow on [REDACTED]? I believe (b) (6), (b) (7)(C) wanted us to get back to (b) (6), (b) (7)(C) by the end of this week.

Thanks,

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

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Cell (b) (6), (b) (7)(C)



Tews, Matthew

From: (b) (6), (b) (7)(C)
Sent: Wednesday, December 23, 2015 9:52 AM
To: (b) (6), (b) (7)(C)
Subject: FW: 2015 Goals/Initiatives
Attachments: 2015 Goals and Initiatives.xlsx

(b) (6), (b) (7)(C) as you can see in my email below – this states these goals were drafted a couple weeks before this email dated on February 20. Goal #1 says Centralize Payroll....

(b) (6), (b) (7)(C)

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(b) (6), (b) (7)(C) • Fax 651-405-6410 • 800-354-7451

From: (b) (6), (b) (7)(C)
Sent: Friday, February 20, 2015 9:52 AM
To: (b) (6), (b) (7)(C)
Subject: 2015 Goals/Initiatives

Morning (b) (6), (b) (7)(C), Happy Friday!!

Attached is my draft of projects and timelines. Obviously this still needs more work but I threw this together a couple weeks ago.

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

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2015 Projects and Initiatives

	Due Date	Member(s)	15-Jan	31-Jan	15-Feb	28-Feb	15-Mar	31-Mar	15-Apr	30-Apr	15-May	31-May	15-Jun	30-Jun	15-Jul	31-Jul	15-Aug	31-Aug	15-Sep	30-Sep	15-Oct	31-Oct	15-Nov	30-Nov	15-Dec	31-Dec
GOAL #1																										
Centralize Payroll		(b) (6), (b) (7)(C)																								
	Tampa Process	4/1/2015																								
	Hire HR Assistant	5/15/2015																								
	Transition Payroll	5/1/2015																								
GOAL #2		(b) (6), (b) (7)(C)																								
		5/20/2015																								
		6/1/2015																								
		6/1/2015																								
		6/1/2015																								
		6/1/2015																								
GOAL #3		(b) (6), (b) (7)(C)																								
		5/1/2015																								
		5/1/2015																								
		10/1/2015																								
		11/1/2015																								
		10/1/2015																								
		11/1/2015																								
		1st Qrt??																								
TEAM MEMBERS		Int.																								
		(b) (6), (b) (7)(C)																								

EXHIBIT J

REDACTED

Tews, Matthew

From: (b) (6), (b) (7)(C)
Sent: Tuesday, May 12, 2015 5:28 PM
To: (b) (6), (b) (7)(C)
Subject: Re: Timeline for Payroll Transition
Attachments: image002.gif

(b) (6), (b) (7)(C)

When I spoke to (b) (6), (b) (7)(C) about the possibility of payroll move to Eagan. I promise (b) (6), (b) (7)(C) that I would give (b) (6), (b) (7)(C) as much notice as possible. I would still like to do that. I spoke to (b) (6), (b) (7)(C) last year and (b) (6), (b) (7)(C) said it would be okay. Can we discuss tomorrow? I will look at the other separation amounts tomorrow.

Sent from my iPhone

On May 12, 2015, at 5:54 PM, (b) (6), (b) (7)(C) @GopherResource.com> wrote:

(b) (6), (b) (7)(C)

I did connect with (b) (6), (b) (7)(C). The notification to (b) (6), (b) (7)(C) would be the week of the 25th (b) (6), (b) (7)(C) being here for the next two payroll runs, so last day being the (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) would come down on (b) (6), (b) (7)(C) for that week's payroll run and to transition in person. I did not speak to (b) (6), (b) (7)(C) around communication. Do you want me to set up some time for the three of us either tomorrow or Friday to talk through a communication plan? I have not spoken to (b) (6), (b) (7)(C) about severance – will try to grab (b) (6), (b) (7)(C) tomorrow. If we are going to recommend (b) (6), (b) (7)(C) months I need to be able to make a case for it. We talked about (b) (6), (b) (7)(C) months being given during the ATS transition. Where there any other severance data points that would support the (b) (6), (b) (7)(C) months we discussed?

Thanks,

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) • Fax 651-405-6410 • 800-354-7451
Cell (b) (6), (b) (7)(C)



From: (b) (6), (b) (7)(C)
Sent: Tuesday, May 12, 2015 9:02 AM
To: (b) (6), (b) (7)(C)
Subject: Timeline for Payroll Transition

(b) (6), (b) (7)(C)

Did you speak to (b) (6), (b) (7)(C) about the timeline for the payroll Transition. Communication to (b) (6), (b) (7)(C) communication to the leadership team here, communication to the population, (b) (6), (b) (7)(C)'s visit and last day for (b) (6), (b) (7)(C)

I would like to put a plan together on my end to make sure things go smoothly and everyone has enough to adjust and have any questions they may have answered.

I would also like to give (b) (6), (b) (7)(C) as much notice as possible.

Did you speak to (b) (6), (b) (7)(C) about (b) (6), (b) (7)(C) severance?

(b) (6), (b) (7)(C)

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Cell (b) (6), (b) (7)(C)

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Tews, Matthew

From: (b) (6), (b) (7)(C)
Sent: Friday, June 05, 2015 12:03 PM
To: (b) (6), (b) (7)(C)
Subject: (b) (6), (b) (7)(C) Vac time

(b) (6), (b) (7)(C)
Just looking at (b) (6), (b) (7)(C) vac/pto balances and noticed (b) (6), (b) (7)(C) didn't put in any vacation for (b) (6), (b) (7)(C) cruise or for (b) (6), (b) (7)(C) days last week.

What do we do about that. Will you address with (b) (6), (b) (7)(C)

Thanks
(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

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(b) (6), (b) (7)(C)

I've got a serious situation that I need to discuss with you. As (b) (6), (b) (7)(C) going through some UltiPro records (b) (6), (b) (7)(C) noticed that you hadn't been logging time off and brought it to my attention. This caused me to wonder if maybe it was being entered directly into your check so I went in and saw that it wasn't, but also noticed that there was OT entered on (b) (6), (b) (7)(C). This was the week that you were off on a Wednesday, (b) (6), (b) (7)(C) notified you of the elimination of position on Thursday and then you were off on Friday.

This caused me to look back and see how much OT you were working. It showed that year to date you were paid out 161 hours of OT and last year it was 690 which seemed like extremely high numbers. So that lead to what have you been doing so I pulled some info on just some of the weekend days and found some disturbing data.

- Changing time

As a result of this we have decided to terminate your employment effective immediately.

Talked to (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) could not say what (b) (6), (b) (7)(C) was doing on this time. She said (b) (6), (b) (7)(C) sometimes took paperwork home with (b) (6), (b) (7)(C). I asked (b) (6), (b) (7)(C) why should would print things out that needed to be done on the computer and how could (b) (6), (b) (7)(C) have over 20 hours of time? (b) (6), (b) (7)(C) said (b) (6), (b) (7)(C) had no explanation and understood what it looked like from my perspective. (b) (6), (b) (7)(C) said that all (b) (6), (b) (7)(C) could say is that if (b) (6), (b) (7)(C) entered the time (b) (6), (b) (7)(C) was doing something. I asked (b) (6), (b) (7)(C) to recall what (b) (6), (b) (7)(C) was doing again and (b) (6), (b) (7)(C) could not. I told (b) (6), (b) (7)(C) at that point I had no other option but to terminate (b) (6), (b) (7)(C) employment.

Tews, Matthew

From: (b) (6), (b) (7)(C)
Sent: Monday, June 08, 2015 8:56 AM
To: (b) (6), (b) (7)(C)
Subject: RE: 5/8/15 Check - (b) (6), (b) (7)(C)

I will look at 2014. (b) (6), (b) (7)(C) is entering (b) (6), (b) (7)(C) OT on the timesheet and (b) (6), (b) (7)(C) adjusted (b) (6), (b) (7)(C) hours on the timesheet, which you can see with that example. I am not sure why there was difference on that one check last payroll. I will get back to you with what I find.

(b) (6), (b) (7)(C)

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(b) (6), (b) (7)(C) • Fax 651-405-6410 • 800-354-7451

From: (b) (6), (b) (7)(C)
Sent: Monday, June 08, 2015 8:34 AM
To: (b) (6), (b) (7)(C)
Subject: RE: 5/8/15 Check - (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Can you run this for 2014 as well? What is the difference between the UTM OT Hours and the Paystub OT? I would have thought that you would see a difference where (b) (6), (b) (7)(C) went in after (b) (6), (b) (7)(C) put the time sheets into payroll status, but there isn't a difference for the week of 4/27 – 5/03. How hard would it be to run a report of how often (b) (6), (b) (7)(C) adjusted (b) (6), (b) (7)(C) own time sheet? I talked to (b) (6), (b) (7)(C) Friday afternoon and (b) (6), (b) (7)(C) asked us to do an audit to make sure we get the full picture of what has been going on.

Also, I can't recall if supervisors with non-exempt employees get an automated email that their time sheets are ready to be reviewed and approved. Can you confirm if they do? Just wondering if (b) (6), (b) (7)(C) would have been receiving any emails around approval of (b) (6), (b) (7)(C) time sheet.

Thanks,

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) • Fax 651-405-6410 • 800-354-7451
Cell (b) (6), (b) (7)(C)

<< OLE Object: Picture (Device Independent Bitmap) >>

From: (b) (6), (b) (7)(C)
Sent: Friday, June 05, 2015 3:55 PM
To: (b) (6), (b) (7)(C)
Subject: RE: 5/8/15 Check - (b) (6), (b) (7)(C)

2015 YTD OT hours 161.75 (b) (6), (b) (7)(C) as of 5/31
 2014 YTD OT hours 690.60
 2013 YTD OT hours 409.00

Week	UTM OT Hours	Paystub OT	Approved by
5/25 - 5/31	9.00	11.00	(b) (6), (b) (7)(C)
5/18 - 5/24	0.00	0.00	
5/11 - 5/17	0.00	0.00	
5/4 - 5/10	9.50	9.50	
4/27 - 5/03	32.50	32.50	
4/20 - 4/26	13.00	13.00	
4/13 - 4/19	18.00	18.00	
4/6 - 4/12	7.75	7.75	
3/30 - 4/05	4.50	4.50	
3/23 - 3/29	1.50	1.50	
3/16 - 3/22	2.00	2.00	
3/9 - 3/15	9.00	9.00	
3/02 - 3/08	8.00	8.00	
2/23 - 3/01	0.00	0.00	
2/16 - 2/22	4.00	4.00	
2/09 - 2/15	6.00	6.00	
2/02 - 2/08	8.50	8.50	
1/26 - 2/01	3.50	3.50	
1/19 - 1/25	7.50	7.50	
1/12 - 1/18	0.00	0.00	
1/05 - 1/11	2.50	2.50	
12/29 - 1/04	11.00	11.00	
12/22 - 12/28	2.00	2.00	
YTD OT	159.75	161.75	

(b) (6), (b) (7)(C)

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From: (b) (6), (b) (7)(C)

Sent: Friday, June 05, 2015 3:34 PM

To: (b) (6), (b) (7)(C)

Subject: 5/8/15 Check - (b) (6), (b) (7)(C)

32 Hours of OT – Approved by (b) (6), (b) (7)(C) – 05/08/15 Paycheck

11:54am OT Hours entered

11:55am Timesheet put in Payroll Status

11:57am Timesheet reopened

11:57am OT hours changed on 4/27/15 (Monday)
11:58am Timesheet approved
1:49pm Timesheet Reopened
1:50pm OT hours changed on 4/30/15 (Thursday)
1:50pm Timesheet Approved
3:38pm Timesheet Closed

<< OLE Object: Picture (Device Independent Bitmap) >>

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(b) (6), (b) (7)(C)

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(b) (6), (b) (7)(C) Fax 651-405-6410 • 800-354-7451

<< OLE Object: Picture (Device Independent Bitmap) >>

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Tews, Matthew

From: (b) (6), (b) (7)(C)
Sent: Monday, June 08, 2015 11:54 AM
To: (b) (6), (b) (7)(C)
Subject: (b) (6), (b) (7)(C) OT.xlsx

Importance: High
Sensitivity: Confidential



(b) (6), (b) (7)(C) OT.xlsx

It would be interesting to see if we could see when (b) (6), (b) (7)(C) used (b) (6), (b) (7)(C) fob to come in/out of the office in 2014 & 2015 and compare any days (b) (6), (b) (7)(C) didn't come into the office to (b) (6), (b) (7)(C) timesheet. This would be the most telling.

Attached are the OT hours for both 2014 and 2015. Here are a couple things I noticed:

All 52 weeks in 2014 have OT - of those 52 weeks
33 weeks have over 10 hours OT p/week
17 of those weeks are over 15 hours p/week
And 10 of those are over 20 hours p/week

In 2014 (b) (6), (b) (7)(C) didn't take much vac/pto but here are days off along with all that OT:
Bereavement – 24 hours
Holiday – 56 hours
PTO – 8 hours
Vacation – 48 hours

2015 Additional Days:

Holiday – 32 hours
PTO – 8 hours
Vacation – 40 hours (these hours were the first 2 checks of the year and each week had a holiday in that week – meaning (b) (6), (b) (7)(C) was in the office 2 days both weeks. Each week also had OT 1st week – 2 hours and 2nd week 11 hours)

Tews, Matthew

From: (b) (6), (b) (7)(C)
Sent: Monday, June 08, 2015 12:55 PM
To: (b) (6), (b) (7)(C)
Subject: RE: (b) (6), (b) (7)(C) OT.xlsx

Importance: High
Sensitivity: Confidential

Another update that I ran. I looked at weekend OT (Sat/Sun) and checked the login audit to UltiPro.

2/15	3.0 hours OT	No login attempt
3/15	3.0 hours OT	No login attempt
4/03	4.5 hours OT	No login attempt
4/12	6.0 hours OT	No login attempt
4/18	6.0 hours OT	No login attempt
4/26	4.5 hours OT	No login attempt
5/09	7.0 hours OT	Only 1 login attempt
5/31	5.5 hours OT	Only 1 login attempt

I only mention the 1 login attempt those 2 days because each day of login attempts when (b) (6), (b) (7)(C) worked has several login records per day, anywhere from 3 to 10. (b) (6), (b) (7)(C) does have some login attempts on weekends when (b) (6), (b) (7)(C) claimed OT but has several logins for those days.

(b) (6), (b) (7)(C)

685 Yankee Doodle Road • Eagan, Minnesota 55121
(b) (6), (b) (7)(C) • Fax 651-405-6410 • 800-354-7451

From: (b) (6), (b) (7)(C)
Sent: Monday, June 08, 2015 11:54 AM
To: (b) (6), (b) (7)(C)
Subject: (b) (6), (b) (7)(C) OT.xlsx
Importance: High
Sensitivity: Confidential

<< File: (b) (6), (b) (7)(C) OT.xlsx >>

It would be interesting to see if we could see when (b) (6), (b) (7)(C) used (b) (6), (b) (7)(C) fob to come in/out of the office in 2014 & 2015 and compare any days (b) (6), (b) (7)(C) didn't come into the office to (b) (6), (b) (7)(C) timesheet. This would be the most telling.

Attached are the OT hours for both 2014 and 2015. Here are a couple things I noticed:

All 52 weeks in 2014 have OT - of those 52 weeks
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And 10 of those are over 20 hours p/week

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Bereavement – 24 hours

Holiday – 56 hours

PTO – 8 hours

Vacation – 48 hours

2015 Additional Days:

Holiday – 32 hours

PTO – 8 hours

Vacation – 40 hours (these hours were the first 2 checks of the year and each week had a holiday in that week – meaning (b) (6), (b) (7)(C) was in the office 2 days both weeks. Each week also had OT 1st week – 2 hours and 2nd week 11 hours)

Summary of IT investigation:

5/31/15 - (b) (6), (b) (7)(C) logged 5.5 hours of OT

(b) (6), (b) (7)(C) logged into UltiPro at 11:08pm and conducted 8 employee changes. (b) (6), (b) (7)(C) was logged in for approximately one hour.

Around 1:07pm (b) (6), (b) (7)(C) send a few emails to (b) (6), (b) (7)(C) personal email account with graduation party information.

The video shows (b) (6), (b) (7)(C) entering the building at 11:04am and leaving at 1:07pm.

4/26/15 - (b) (6), (b) (7)(C) logged 4.5 hours of OT

There was no web traffic, no UltiPro logins, no emails sent and no entry into the building.

4/18/15 - (b) (6), (b) (7)(C) logged 6 hours of OT

There was no web traffic, no UltiPro logins, no emails sent and no entry into the building.

4/12/15 - (b) (6), (b) (7)(C) logged 6 hours of OT

There was no web traffic, no UltiPro logins, no emails sent and no entry into the building.

4/3/15 - (b) (6), (b) (7)(C) logged 4.5 hours of OT

There was web traffic to Facebook starting at around 3:58pm and Gmail ending at 4:14pm. No company emails sent, no UltiPro logins. Video shows (b) (6), (b) (7)(C) arriving at 3:56pm and leaving at 4:25pm.

EFT Key Registry

The following key has been assigned to the following EFT employee.

Key# (b) (6), (b) (7)(C)

Hook # (b) (6), (b) (7)(C)

Mark # (b) (6), (b) (7)(C)

Type (b) (6), (b) (7)(C)

Employee Name (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)
Employee Signature

Date (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)
Issued by

Return
(b) (6), (b) (7)(C) 15
(b) (6), (b) (7)(C)

October 31, 2011



(b) (6), (b) (7)(C)

Dear (b) (6), (b) (7)(C)

EnviroFocus Technologies (EFT) is pleased to offer you the position of (b) (6), (b) (7)(C). Your first day of employment is scheduled for (b) (6), (b) (7)(C) at a rate of (b) (6), (b) (7)(C) hourly / (b) (6), (b) (7)(C) on an annualized basis. You are eligible for up to an additional 4.0% in compensation through our pay for performance Goals Program which will be more thoroughly reviewed with you upon employment. Your employment with EFT will be an at-will employment situation and you will be a salaried non-exempt employee to receive pay checks weekly.

Your participation in the EFT cafeteria plan that includes medical, dental, short-term and long-term disability, life, and vision insurance, dependent care and medical/dental care spending accounts will become effective November 1, 2011 (60 days and first of the month from hire date). Your eligibility to participate in the 401(k) plan will be effective six months and first of the month from your date of hire. Our 401(k) plan matches employee contributions dollar for dollar up to 3% and fifty cents on the dollar for contribution amounts over 3% and up to 5%.

You are eligible for 2 days of vacation for the remainder of 2011. Effective January 1, 2012 you will have 10 days vacation and 2 personal days annually until your fifth anniversary year where you will be eligible for 15 days vacation and 2 personal days annually.

Enclosed you will find a total compensation form that outlines your salary, cafeteria plan benefits, and potential Goals Program payment for 2012. Please understand that employment is contingent upon the pending physical, substance screen, and Consumer Report being processed and meeting the required outcomes. We have also included a standard confidentiality agreement that we request you review and sign as well.

(b) (6), (b) (7)(C) we are excited and looking forward to your joining our team. If you should have any questions or concerns, please do not hesitate to contact me at (b) (6), (b) (7)(C)

Warm regards,

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Enclosures

By signing below, I accept and agree to the conditions of employment as described in this document.

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

EnviroFocus Technologies LLC

[Employee] Voice (b) (6), (b) (7)(C) Fax 813-620-3505 Web: efttampa.com 6505 Jewel Avenue • Tampa, Florida 33619

EXHIBIT R



Title: HR/Payroll Assistant
Department: Human Resources

Exempt/Non-Exempt Status: ~~Exempt~~ *Non-Exempt*
Reports To: Human Resources Manager

Section 1. Position Purpose

The HR/Payroll Assistant provides support in various areas of human resources and is responsible for payroll processing.

Section 2. Education, Experience, and Skills

- College-level degree in human resources, communications, accounting or business administration, or course work in related subject and one to two years experience
- Excellent organizational and communication skills
- Working knowledge of payroll and communication skills
- Working knowledge of payroll and HRIS database

Section 3. Decision Making and Problem Solving

Problems generally relate to employees. Precedent, policy, legal, and company standards offer some guidance but some judgement is required in determining the appropriate course of action.

Section 4. Authority and Responsibility

- Payroll processing for salary and non-salary to include but not limited to the following
 - Verify entry of new hires and changes of employment status
 - Verify hours of overtime for hourly employees and process weekly payroll
 - Reconcile each payroll run before distributing paychecks
 - Process wage garnishments - receive, enter, maintain, and run reports
- Maintain attendance for hourly employees to include but not limited to tracking status, verifying absences and tardies, and assigning warning slips
- Participate in administrative staff meetings, new hire orientation, and other meetings and seminars
- Assist with recruiting and staffing - placing classified ads, screening, employment verification, and paperwork
- Create and maintain employee personnel records, including tracking system for verification and sick leave
- Provide customer service to employees by answering questions regarding payroll, policies, and procedures
- Administrate all employee recognition programs
- Facilitate monthly staff meeting
- Provide support with special projects, meal orders, and company events

- Complete employment verifications for employees as needed
- Unemployment paperwork - completing forms, submitting, tracking, and filing
- Ensure payroll deductions such as 401(k), and loans are entered and tracked in payroll with accuracy
- Other duties and tasks as assigned by management

Section 5. Interpersonal Relations and Contacts

The HR/Payroll Assistant is a resource to the organization. Contacts should be reflective on listening to needs, discussing options, and offering ideas and support.

Problems may involve issues between departments or with employees where thoughtful responses within defined parameters are appropriate.

Section 6. Working Conditions

Typical office environment as it pertains to lighting and noise: (b) (6), (b) (7)(C)

Employee Signature: (b) (6), (b) (7)(C)

Supervisor/Manager Signature: (b) (6), (b) (7)(C)

Date: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

PROFILE

- Over 15 years of experience in the field of administration and management
- Self-starter and demonstrated ability to problem solve and handle crisis situations
- Solid track record of consistently meeting and exceeding goals and objectives
- Strong training, communication and marketing skills

EDUCATION

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

M.S., Leadership

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

B.S., Business Management

PROFESSIONAL EXPERIENCE

(b) (6), (b) (7)(C)

CEO/Trainer

Consulting business developed to provide board training, staff development and personal image and career development to non-profit organizations and small business owners.

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

- Managed a series of HR functions including and personnel file management.

(b) (6), (b) (7)(C)

- Managed a series of HR functions including HRMS database administration and personnel file management.

(b) (6), (b) (7)(C)

- Perform administrative support functions for the CEO of a large manufacturing company.
- Coordinated travel and lodging for Senior Leadership in 9 locations; manage out-of-town guests.

(b) (6), (b) (7)(C), Page 1

- Facilitated ordering of all business forms necessary operation of administration and warehouse.

(b) (6), (b) (7)(C)

Director

- Directed daily business operations including supervision of front-line supervisors.
- Aided in the implementation of a follow-up program to retain new employees.
- Conducted weekly meetings with front-line supervisors to determine the effectiveness of recruiting and retention programs.
- Managed a series of HR functions including HRMS database administration, personnel file management, employee screening/hiring/orientation and staff training/development programs.
- Effectively managed fundraising activities for the Center.

(b) (6), (b) (7)(C)

Personal Assistant, Project & Marketing Coordinator **(b) (6), (b) (7)(C)**

- Designed and implemented personnel policies and procedures, department operational procedures, employee orientation and exit interviews.
- Designed and facilitated training seminars in the areas of personal development, organizational training, leadership development and communication.
- Performed effectively and managed multiple priorities and projects including Winnie Mandela 1999 visit to the City of Detroit, relocation of 75 families following hurricane Katrina, 30-day health & education trip to South Africa.
- Coordinated and oversaw all marketing activities for the organizations.

(b) (6), (b) (7)(C)

- As school of ministry instructor developed course materials and assessed student's mastery of academic skills and competencies as required by course outcomes.
- Assisted in developing College's Strategic Plan.
- Taught 5 hours per week in the area of administration and business communication.
- Participated in and taught at leadership trainings and community workshops.

(b) (6), (b) (7)(C)

Assistant Director Family Support Services, **(b) (6), (b) (7)(C)**

- Effectively managed outsourcing contracts for temporary employees.
- Managed \$1.2 million annual operating budget.
- Facilitated staff recruitment, hiring, orientation and training.
- Oversaw operations for family support programming including supervision of 22 employees
- Provided individual and group counseling with primary focus on self-esteem enhancement, anger management, drug awareness and peer mediation.
- Provided tutoring and mentoring to adolescent girls on probation for delinquency, worked with the elderly, abused single mothers and facilitated a parenting program.
- Assisted Director in developing goals and objectives of organization including the housing development component.

ADMINISTRATIVE/OPERATIONS APPLICATION FOR EMPLOYMENT



Pre-Employment Questionnaire – An Equal Opportunity Employer

Last Name (b) (6), (b) (7)(C)	First Name (b) (6), (b) (7)(C)	Middle Initial (b) (6), (b) (7)(C)
Present Address (b) (6), (b) (7)(C)	Apt. No. (b) (6), (b) (7)(C)	City (b) (6), (b) (7)(C)
State (b) (6), (b) (7)(C)	Zip (b) (6), (b) (7)(C)	
Permanent Address (If Different from Present)	Apt. No.	City
State	Zip	
Are You 18 Years or Older? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Home Phone Number (b) (6), (b) (7)(C)	Cell Phone Number (b) (6), (b) (7)(C)
Are you Currently Authorized to Work in the United States? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (Proof of eligibility will be required upon offer of employment)		

DESIRED EMPLOYMENT

Position Desired <i>HR Assistant</i>	Salary Desired	Date You Can Start <i>ASAP</i>
Have You Ever Been Terminated From Employment or Asked to Resign From a Job? (b) (6), (b) (7)(C)		
Are You Currently Employed? (b) (6), (b) (7)(C)	If Yes, May We Inquire of Your Present Employer? (b) (6), (b) (7)(C)	
Have You Ever Applied to this Company Before? (b) (6), (b) (7)(C)	If Yes, When?	
Have You Ever Worked for this Company Before? (b) (6), (b) (7)(C)	If Yes, When?	
Reason for Leaving? <i>Left</i>		
Name of Last Supervisor at this Company		
Do You Know Anyone Who Works for this Company? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	If Yes, Who?	
How Were You Referred to this Company? <input type="checkbox"/> College Placement Service <input checked="" type="checkbox"/> Employment Agency <input type="checkbox"/> State Employment Office <input type="checkbox"/> Internet <input type="checkbox"/> Newspaper Advertising <input type="checkbox"/> Current Company Employee: Name <input type="checkbox"/> Walk In <input type="checkbox"/> Other		

EDUCATION

School Level	School Name, City, and State	# of Years Attended	Did you Graduate?	Subjects Studied/Major(s)	Diploma/Degree(s)
High School or Educational Facility	(b) (6), (b) (7)(C)				
College					
Additional Schooling					
Trade, Business, Other					

If Applicable, Please List Any Academic Honors, Scholarships, and/or Fellowships. Including Subjects of Special Study, Research, Specialized Training, Apprenticeships, Licenses, Certificates, or Skills. (Do not list any which reflect your race, color, religion, gender, national origin, age, disabilities, or veteran status.)

EXHIBIT R

FORMER EMPLOYEE (Below, List Your Last Three Employers, Starting With the Most Recent Employer First)

Name of Present or Previous Employer (b) (6), (b) (7)(C)		Type of Business (b) (6), (b) (7)(C)	
Address (b) (6), (b) (7)(C)	City Tampa	State FL	Zip 33607
Starting Salary \$15.00 - 18.00/hr	Final Salary	May We Contact Your Supervisor? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Name of Supervisor (b) (6), (b) (7)(C)	Title (b) (6), (b) (7)(C)	Telephone Number (b) (6), (b) (7)(C)	
Starting Date (b) (6), (b) (7)(C)	Leaving Date (b) (6), (b) (7)(C)	Title of Position N/A	
Summarize the Nature of Work Performed and Job Responsibilities Various Admin Assistant & HR Assistant assignments			
Reason for Leaving Took a permanent job			

Name of Previous Employer (b) (6), (b) (7)(C)		Type of Business (b) (6), (b) (7)(C)	
Address (b) (6), (b) (7)(C)	City Tampa	State FL	Zip 33603
Starting Salary 65,000	Final Salary 65,000	May We Contact Your Supervisor? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Name of Supervisor (b) (6), (b) (7)(C)	Title (b) (6), (b) (7)(C)	Telephone Number (b) (6), (b) (7)(C)	
Starting Date (b) (6), (b) (7)(C)	Leaving Date (b) (6), (b) (7)(C)	Title of Position (b) (6), (b) (7)(C)	
Summarize the Nature of Work Performed and Job Responsibilities Planned and coordinated operations of departments.			
Reason for Leaving Laid-off			

Name of Previous Employer (b) (6), (b) (7)(C)		Type of Business (b) (6), (b) (7)(C)	
Address (b) (6), (b) (7)(C)	City Detroit	State MI	Zip 48204
Starting Salary 35,000	Final Salary 45,000	May We Contact Your Supervisor? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Name of Supervisor (b) (6), (b) (7)(C)	Title (b) (6), (b) (7)(C)	Telephone Number (b) (6), (b) (7)(C)	
Starting Date (b) (6), (b) (7)(C)	Leaving Date (b) (6), (b) (7)(C)	Title of Position (b) (6), (b) (7)(C)	
Summarize the Nature of Work Performed and Job Responsibilities provided assistance to the (b) (6), (b) (7)(C) Coordinated and oversaw all conferences and travel			
Reason for Leaving Relocated to Florida to take a job			

REFERENCES (Below, Provide the Names and Information of Three Persons Whom You Are Not Related to and Have Known At Least Three Years)

Name	Address	Telephone Number	Nature of Relationship	Years Acquainted
(b) (6), (b) (7)(C)			Friend	52
			Friend	15
			Friend	10

Have You Been Convicted of A Misdemeanor or Felony?	(b) (6), (b) (7)(C)
If Yes, Please Explain (Will Not Necessarily Exclude You from Consideration)	

***PLEASE READ CAREFULLY BEFORE SIGNING**

AT-WILL EMPLOYMENT

I understand that submission of an application does not guarantee employment. I further understand that, should an offer of employment be extended by EnviroFocus Technologies (hereinafter referred to as "EFT"), such employment with EFT is at will, for no specified duration, and may be terminated by either EFT or myself at any time, with or without cause or notice. I understand that none of the documents, policies, procedures, actions, statements of EFT or its representatives used during the employee hiring process is deemed a contract of employment, real, or implied. I understand that no representative of EFT, except an authorized executive, has the authority to enter into any agreement guaranteeing any conditions of employment or any agreement contrary to the foregoing statement, and that any such agreements must be made in writing and signed by the authorized executive of EFT.

AUTHORIZATION

I hereby certify that all of the information provided by me in this application (or any other accompanying or required documents) is accurate and complete to the best of my knowledge. I understand that the falsification, misrepresentation, or omission of any facts in said documents will be cause for denial of employment or immediate termination of employment, regardless of the timing or circumstances of discovery.

I understand that if offered a position with EFT, I may be required to submit to a pre-employment medical examination, substance screening, and background check as a condition of employment. I understand that unsatisfactory results, refusal to cooperate with, or any attempt to affect the results of these pre-employment tests and checks will result in withdrawal of any employment offer or termination of employment if already employed.

BY SIGNING BELOW, I ACKNOWLEDGE THAT I HAVE READ, UNDERSTOOD, AND AGREE TO THE ABOVE STATEMENTS.

(b) (6), (b) (7)(C)	(b) (6), (b) (7)(C)
Date	Signature

ENVIROFOCUS TECHNOLOGIES, LLC
DISCLOSURE & AUTHORIZATION TO OBTAIN CONSUMER REPORT
PURSUANT TO 15 U.S.C. 1681b(2)(A)

As part of its employment application process, EnviroFocus Technologies, LLC may obtain a consumer report for employment purposes as a part of a background investigation. Inquiry may include, but is not limited to: conviction records, motor vehicle records, credit checks, previous employment verification, references, and copies of prior personnel files.

This disclosure is made pursuant to the Fair Credit Reporting Act, 15 U.S.C. §1681b(2)(a).

The FCRA requires that a prospective employee is provided with a "clear and concise disclosure" in writing that a consumer report may be obtained for employment purposes.

I authorize EnviroFocus Technologies, LLC to obtain a consumer report for employment purposes. I understand that inquiry may include, but is not limited to: conviction records, motor vehicle records, credit checks, previous employment verification, references, and copies of prior personnel files.

I acknowledge that a telephonic facsimile or copy of this release shall be as valid as the original. This release is valid for all federal, state, county and local agencies and authorities.

The following is my complete and legal name, and all information is true and correct to the best of my knowledge.

Last Name: (b) (6), (b) (7)(C) First: (b) (6), (b) (7)(C) Middle: (b) (6), (b) (7)(C)
Birth Date: (b) (6), (b) (7)(C) DL State and Number: _____
Social Security Number: _____ Sex: (b) (6), (b) (7)(C)

Former Names and time frames (if applicable)

(b) (6), (b) (7)(C)

Current Address	City/State	Zip & County	Dates (Month and Year)
(b) (6), (b) (7)(C)	(b) (6), (b) (7)(C)	(b) (6), (b) (7)(C)	(b) (6), (b) (7)(C)

Previous addresses

In the event that the information provided by me is found to be misleading or false, my acceptance for this employment, whether the determination is made before or after my date of acceptance, or occupancy, may be affected or/and terminated. I agree to hold harmless "the company" and all providers of information.

(b) (6), (b) (7)(C) (b) (6), (b) (7)(C)
Print Name: (b) (6), (b) (7)(C) Date: _____

Signature _____



Acknowledgement of Receipt & Understanding of the Rights under FCRA

I hereby certify that I have received, read and fully understand the contents of the Your Rights Under the Fair Credit Reporting Act. I also acknowledge that I have been given the opportunity to discuss the contents of this document with a company official. My signature below certifies my knowledge and acceptance of the release of authorization for background information check.

I acknowledge that the company reserves the right to modify or amend the criminal background check policy at any time, without prior notice. These policies do not create any promises or contractual obligations between "the company" and its employees.

(b) (6), (b) (7)(C)

Signature

(b) (6), (b) (7)(C)

Date

(b) (6), (b) (7)(C)

Print Name

ENVIROFOCUS TECHNOLOGIES

A STEP AHEAD . . . AND THE VISION TO BE GREATER

OUR MISSION

SUPPLY QUALITY PRODUCTS AND SERVICES
TO OUR CUSTOMERS THROUGH ENVIRONMENTALLY SAFE RECYCLING.

BE RECOGNIZED AS A LEADER

IN IMPLEMENTING INNOVATIVE PROCESS IMPROVEMENTS.

ENABLE ALL EMPLOYEES TO REALIZE PERSONAL AND PROFESSIONAL DEVELOPMENT
THROUGH COMPANY-WIDE INVOLVEMENT, OPEN COMMUNICATIONS,
AND TRAINING WITHIN A SAFE WORKING ENVIRONMENT.

TOTAL COMPENSATION

The total compensation program provided by EnviroFocus Technologies (EFT) includes the value of pay, benefits, and non-cash rewards, including a culture that encourages the personal and professional development of the employees. The total compensation package is made up of the following key components.

Base Pay is provided in exchange for performing job responsibilities in accordance with expectations.

Bonus/ Incentive Compensation (through the Goals Program) is offered to reward employees for achieving development objectives and contributing to the attainment of key Company goals.

Benefits are provided for the health and financial security of our employees and their families, to assist employees with the cost of personal/professional education and development, and to recognize continued employment.

BASE PAY ANNUALLY:

\$35,360.00

POTENTIAL TOTAL GOALS PROGRAM:

(4.0% of annual salary/will be prorated due to
(b) (6), (b) (7)(C))

\$ 1,414.00

EFT CAFETERIA PLAN BENEFITS ANNUALLY:

(Plan eligibility is on (b) (6), (b) (7)(C). Benefits include medical, dental, short-term and long-term disability, life, supplemental life, and vision insurance, dependent care, and medical/dental pre-tax accounts. In the event that café dollars are not used in total, they are cashed out at 80% as additional compensation.)

\$12,421.00

ADDITIONAL BENEFITS

401(k) - dollar for dollar matching up to 3% and \$.50 to the dollar matching from 3% to 5% (eligible six months and first of the month from hire with a 3 year vesting period)

Vacation 1 days for remainder of (b) (6), (b) (7)(C)

Paid time off 0 days for remainder of (b) (6), (b) (7)(C)

Seven observed holidays annually

Tuition reimbursement of \$2,000 annually

Annual picnic and holiday party

Annual Performance Evaluations - (b) (6), (b) (7)(C) eligibility of 0 - 5.0% salary increase

STARTING TOTAL COMPENSATION PACKAGE: \$49,195.00

EFT Key Registry

The following key has been assigned to the following EFT employee.

Key# (b) (6), (b) (7)(C)

Hook # (b) (6), (b) (7)(C)

Mark # (b) (6), (b) (7)(C)

Type (b) (6), (b) (7)(C)

Employee Name (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)
Employee Signature

Date (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)
Issued by

Return
(b) (6), (b) (7)(C) 115
(b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

EMPLOYEE CONFIDENTIAL INFORMATION AGREEMENT

THIS CONFIDENTIAL INFORMATION AGREEMENT (the "Agreement"), is entered into by and between the undersigned employee ("Employee") and EnviroFocus Technologies, along with all of companies or entities which it owns, controls, or is affiliated with, or their successors, including but not limited to Gopher Resource, LLC (collectively "Company" or "EFT").

Employee understands that Envirofocus Technologies is in a highly competitive industry of recycling and relies substantially upon maintaining the confidentiality of its Confidential Information (as herein defined), protecting its client relationships, and upon retaining its workforce and contractors, for the purpose of establishing and maintaining certain competitive advantages, and that Employee's unauthorized use or disclosure of EFT's Confidential Information would seriously and irreparably harm EFT's business and cause financial loss that would be difficult, if not impossible, to measure.

In consideration and as a material condition of Employee's employment, Employee agrees as follows:

1. Nondisclosure of Confidential Information.

(a) During and after Employee's employment, Employee covenants and agrees to treat as confidential and to use only for the advancement of the interests of EnviroFocus Technologies, any and all Confidential Information. "Confidential Information" includes, but is not limited to: (1) all information that derives independent economic value, actual or potential, from not being known to, and not being readily ascertainable through proper means by, other persons who can derive economic value from its disclosure or use; (2) trade secrets; and/or (3) any additional information the Company reasonably would want to protect as confidential, including but not limited to, the Company's personnel and compensation information; accounts; procedures; manuals; financial cost and sales data; supply sources and resources; contracts; price lists, accounting and bookkeeping practices; office policies and practices; financial information; marketing plans; business plans; strategic plans; future growth plans; prospect names and lists; existing and potential business opportunities; confidential reports; customer lists and contracts; customer information, including but not limited to information on customer contacts, buyers, buying history and needs for Company's products and services; litigation and other legal matters, as well as information specific to the Company's products, such as source code, coding standards, programming techniques, processes and systems; computer programs, algorithms, techniques, processes, designs, specifications, diagrams, flow charts, ideas, systems, and methods of operation of such programs; and research and development work. Confidential Information also includes information regarding Company's clients obtained as a result of Employee's employment with Company.

(b) Employee agrees he/she will not directly or indirectly (1) disclose any Confidential Information to anyone outside of EFT, (2) use Confidential Information for the benefit of anyone other than EFT, or (3) copy, publish, summarize, or remove from EFT's premises such information except (i) during Employee's employment to the extent necessary to

carry out Employee's responsibilities as an employee of EFT; or (ii) after termination of Employee's employment, as specifically authorized in writing by a duly authorized officer of EFT. Employee further understands that the publication of any Confidential Information through literature, speeches, mass media, the internet, blogs, facebook, twitter or other mass communication methods must be approved in advance in writing by a duly authorized officer of EFT.

(c) Employee recognizes that EFT has received and in the future will receive from third parties, including EFT's clients and prime and subcontractors; their confidential or proprietary information subject to a duty on EFT's part to maintain the confidentiality of such information and to use it only for certain limited purposes. Employee agrees that he/she owes EFT and such third parties, during the term of Employee's employment and thereafter, a duty to hold all such confidential or proprietary information in the strictest confidence and not to disclose it to any person, firm, or corporation (except as necessary in carrying out Employee's work for EFT consistent with EFT's agreement with such third party) or to use it for the benefit of anyone other than for EFT or such third party (consistent with EFT's agreement with such third party) without the express written authorization of a duly authorized officer of EFT.

(d) Upon termination of Employee's employment with EFT, for any reason, voluntary or involuntary, with or without cause or notice, Employee shall immediately return to EFT any documents or electronic data in Employee's possession, custody or control, including all copies, which Employee received or created in connection with his/her employment at EFT. This includes but is not limited to Confidential Information, client lists, written information, forms, formulae, plans, documents or other written or computer material or data, software or firmware, or copies of the same, or other property belonging to EFT, or any of its clients, or prime or subcontractors. Employee shall not at any time thereafter copy, reproduce or otherwise facilitate the future disclosure of the same. Employee shall not retain or use for Employee's account any trade names, trademarks, service marks, or other proprietary business designation used or owned in connection with the business of EFT. Notwithstanding this Paragraph, Employee may retain documents or electronic data that relate solely to Employee's compensation or benefits at EFT or relates solely to Employee's performance, such as performance reviews or memoranda of commendation.

(e) Employee represents and warrants that he/she has no confidential, trade secret or proprietary documents or electronic belonging to any third party in his/her possession, custody or control, and that he/she will not use or disclose to EFT any confidential, trade secret or proprietary information belonging to any third party. Employee agrees he/she will not solicit or accept any confidential, trade secret or proprietary information from any third party without the rightful owner's consent. If Employee receives a third party's confidential, trade secret or proprietary information without the rightful owner's consent, he/she will immediately notify his/her supervisor at EFT and/or EFT's highest level human resources employee without reviewing or accessing the information, and will follow all instructions from the supervisor and/or human resources

2. **Enforcement; Remedies; Construction.**

(a) Employee acknowledges and agrees that because the breach or threatened breach of the covenants contained in Section 1 shall result in immediate and irreparable injury to EFT, EFT shall be entitled to an injunction restraining any such breach (and Employee hereby consents to such injunction), as well as any reasonable attorney's fees incurred in seeking such injunction or other relief in a court of law, in addition to any other available remedies.

(b) Employee expressly acknowledges and agrees that the covenants in Section 1 are reasonable and necessary. In the event a court rules that any part of this Agreement is not enforceable, that part may be modified by the court to make it enforceable or it may be severed and the other parts of the Agreement shall remain enforceable.

3. **Miscellaneous.**

(a) **Entire Agreement.** This writing constitutes the entire agreement between the parties and supersedes any prior understanding or agreements between them respecting the subject matter herein contained. There are no representations, arrangements, understandings or agreements, oral or written, regarding Confidential Information, between the parties hereto, *except* as set forth in any Confidentiality and Non-Competition Agreement entered into between Employee and EFT, which shall supersede this Agreement to the extent the agreements are inconsistent or conflict with one another.

(b) **At-Will Employment.** Nothing in this Agreement is intended to alter, or should be construed as altering, the at-will nature of the employment relationship between Employee and EFT.

(c) **Amendments.** No amendments, changes, alterations, modifications, additions and qualifications to the terms of this Agreement shall be made or binding unless made in writing and signed by all the parties hereto.

(d) **Effective Date.** This Agreement is effective and irrevocable upon signature by Employee below.

(e) **Waiver.** The failure of either party to enforce at any time any of the provisions of this Agreement shall not be construed as a waiver of such provisions or of the right of such party thereafter to enforce any such provisions.

(f) **Construction.** A court construing this Agreement shall not employ a rule of construction that it should be construed more strictly against one party or the other, including the drafter.

(g) **Governing Law.** This Agreement shall be construed and governed in accordance with the laws of the state of Florida. Any actions to interpret or enforce this Agreement shall be brought in the state or federal courts of Florida, which shall have exclusive jurisdiction over such actions, and Employee consents to jurisdiction therein.

(h) **Assignment.** This Agreement is not assignable by Employee. EFT may assign this Agreement to any successor owner of all or any portion of the business of EFT or to any company affiliated with EFT, at any time, provided that EFT shall give Employee notice after such assignment is made.

(i) **Opportunity to Review.** Employee acknowledges that he/she was given sufficient time to review this Agreement and has had full opportunity to review it with the counsel of his/her choosing. Employee states that he/she has carefully read the Agreement and knows and understands its contents and its binding legal effect. Employee signs this Agreement of his/her own free will and act and intends to be legally bound hereby.

IN WITNESS WHEREOF, the parties have executed this Confidentiality Agreement as set forth below.

Dated: (b) (6), (b) (7)(C)

EnviroFocus Technologies

(b) (6), (b) (7)(C)

By

Name: (b) (6), (b) (7)(C)

Title: (b) (6), (b) (7)(C)

Employee:

Dated: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Print



EMERGENCY CONTACT INFORMATION

Date: 2/22/13

Employee Name: (b) (6), (b) (7)(C)

Employee Address: _____

City, State, Zip: _____

Home Number _____ Cell Number (b) (6), (b) (7)(C)

Primary Contact Name: (b) (6), (b) (7)(C)

Relationship: (b) (6), (b) (7)(C)

Contact Address: Same as above

Contact Phone Number: (b) (6), (b) (7)(C)

Alternate Phone Number: _____

Secondary Contact Name: (b) (6), (b) (7)(C)

Relationship: (b) (6), (b) (7)(C)

Contact Phone Number: (b) (6), (b) (7)(C)

Alternate Phone Number: _____

PERFORMANCE PLANNING AND APPRAISAL FORM

Name: (b) (6), (b) (7)(C)

Title: (b) (6), (b) (7)(C) Department: (b) (6), (b) (7)(C)

Date of Performance Planning Session: Date of Mid-Year Progress Review:

Date of Year-End Appraisal Session: 01/12

Instructions

Instructions for the Performance Planning and Appraisal Form and Process are as follows:

Planning

- This form should be completed in a performance planning session with your manager at the beginning of the performance year. This planning session may take place following your previous year's performance appraisal discussion or in a separate meeting following that discussion.
- At the planning session, you and your manager will review and discuss the key performance component, including how they specifically apply to your job and responsibilities over the coming year. Your manager also has the option to add to these key performance components in a couple of ways, to better fit your job and its requirements. As appropriate, these additions (described below) will be presented and discussed at this planning session.
 - Your manager may add a specific statement under one or more of the key performance components that describes a standard which is an important element of performance for that component in your job.
 - In the event that there is a component of your job which doesn't fit or can't be easily measured through the existing set of key performance components, your manager also has the option to add a new performance component specific to your job to this form.
- All performance components are weighted equally.
- The planning session should occur by February 1 annually.

Development Action Plan

- Following the Year End Performance Appraisal and in preparation for the Planning session, employees are highly encouraged to draft their Development Action Plan (DAP). The DAP is a tool designed to work with the Performance Appraisal and Professional Goals in guiding you to continuous improvement through education, training, and a focused approach to your development.

Mid-Year Progress Review

- You and your manager will meet mid-year to discuss your progress to date against the key performance components (including any additional standards or performance components that were added to your form). This discussion will be documented on your performance form in the way of comments, not with formal ratings.
- This mid-year progress review session should take place between June 1 and July 31.

Year End Performance Appraisal

- You meet with your manager for a formal year-end appraisal of your actual performance.
- This performance appraisal session should take place no later than January 20.

Additional detail on the standards for the key performance components is available in the Supplement to the Performance Planning and Appraisal Form (a separate document).

Part 1: Key Performance Components

Key Performance Components describe the elements of performance common to all jobs at the Company. Under each component, there is a description of the Company performance standard (at "Meets Standards") for that component. As desired, you may reference the Supplement to the Performance Planning and Appraisal Form (a separate document) for more detailed descriptions of the standards for each key performance component. At the performance planning session, the manager may also add one or more standards specific to the job. There are spaces for comments at the Mid-Year Progress Check and the Year-End Appraisal, as well as a final rating (using scale at bottom of page). Note that at the end of this section, there is a space for an optional additional Performance Component, as appropriate.

Judgment and Decisiveness

Company Standard: Makes appropriate decisions considering the best available information and within the appropriate timeframe. Decisions show consideration of pros and cons and the consequences for self and others. Knows when to make decisions personally, and when to defer the decision making to another person.

Additional Standard(s) Specific to Position:

Mid-Year Progress Check – Comments:

Year-End Comments: (b) (6), (b) (7)(C) has displayed the ability of making appropriate decisions during the course of employment. As (b) (6), (b) (7)(C) continue to be part of the team, (b) (6), (b) (7)(C) will be able to take on more responsibility and increase (b) (6), (b) (7)(C) decision making process once (b) (6), (b) (7)(C) knowledge of the business continues to increase.

Rating
2.7

Teamwork and Relationships

Company Standard: Relates well to others both inside and outside the Company. Uses diplomacy and tact when called for. Shares needed information and resources. Contributes to team projects by taking part in meetings, completing assigned tasks on time, and helping others as needed. Supports co-workers by showing them how to do things differently/correctly, as opposed to simply "telling on them".

Additional Standard(s) Specific to Position:

Mid-Year Progress Check – Comments:

Year-End Comments: (b) (6), (b) (7)(C) has developed a strong relationship with the (b) (6), (b) (7)(C) team and plant employees. (b) (6), (b) (7)(C) has become the face of the (b) (6), (b) (7)(C) Team internally and externally.

Rating
2.9

Learning and Initiative

Company Standard: A quick learner and self-starter. Does not wait to be told what to do. Offers to assist others when they need help and is willing to support/help peers when needed. Willingly pursues development and self-improvement and learns from successes and failures. Looks for ways that things can work instead of reasons why they cannot.

Additional Standard(s) Specific to Position:

Mid-Year Progress Check – Comments:

Year-End Comments: (b) (6), (b) (7)(C) has learned all the task /areas of responsibilities that have been assigned to (b) (6), (b) (7)(C) very well. (b) (6), (b) (7)(C) has taken the initiative to learn as much as possible.

Rating
2.9

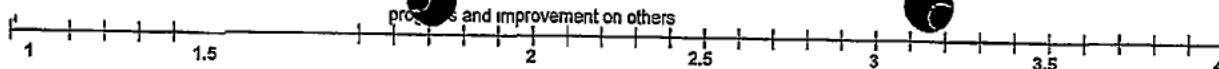
RATING SCALE

Below Standards
Performance is consistently at a level below the described standards

Nearly Meets Standards
Performance consistently meets some of the described standards, but requires

Meets Standards
Performance consistently meets the described standards

Exceeds Standards
Performance consistently exceeds the described standards



Part 1: Key Performance Components (continued)

Communication

Company Standard: Can communicate clearly. Participates effectively in meetings, actively and attentively listens to others, speaks at the appropriate time. Communicates with all internal and external contacts in a positive, professional manner. Writing is concise and understandable, using appropriate grammar, punctuation, style, and structure.

Additional Standard(s) Specific to Position:

Mid-Year Progress Check – Comments:

Year-End Comments: (b) (6), (b) (7)(C) communicates well and effectively with in the team and overall. Strong communication skills.

Rating
2.9

Customer Focus (Internal and External)

Company Standard: Recognizes both internal and external customers, and is dedicated to meeting their expectations. Addresses customer needs quickly and directly, or connects them with a Company representative that can better serve them. Gains customer trust and respect.

Additional Standard(s) Specific to Position:

Mid-Year Progress Check – Comments:

Year-End Comments: (b) (6), (b) (7)(C) understands that new employees are our most important customers. (b) (6), (b) (7)(C) make sure (b) (6), (b) (7)(C) follow up and always seeks how best to service our customers.

Rating
3.0

Creativity and Vision

Company Standard: Comes up with new ideas in the workplace. Able to see things in the longer-term, grasps issues and needs that are bigger and longer range than those on the surface. Makes original and helpful contributions in brainstorming sessions.

Additional Standard(s) Specific to Position:

Mid-Year Progress Check – Comments:

Year-End Comments: (b) (6), (b) (7)(C) has displayed some creativity during the cause of employment. I believe that in 2012 (b) (6), (b) (7)(C) will display a lot more.

Rating
2.5

Getting Results

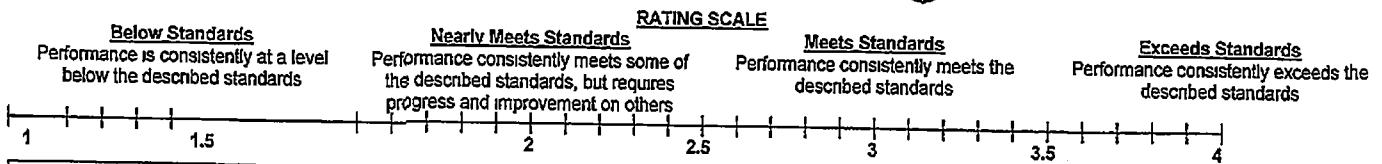
Company Standard: Able to get results whether working independently, through subordinates, through co-workers, or through parties outside the Company (e.g., vendors or consultants), as responsibilities demand. Sets priorities and allocates time and resources appropriately. Stays with a plan of action until the desired result is achieved.

Additional Standard(s) Specific to Position:

Mid-Year Progress Check – Comments:

Year-End Comments: (b) (6), (b) (7)(C) time management and task orient skills are one of (b) (6), (b) (7)(C) strongest points. Once (b) (6), (b) (7)(C) focusing on a task (b) (6), (b) (7)(C) completes it effectively.

Rating
3.0



Part 1: Key Performance Components (continued)

Workplace and Environmental Safety (For Operations Positions Only)

Company Standard: Follows the Company guidelines to maintain workplace and environmental safety. Calls attention to safety issues and environmental hazards, offers suggestions for improvements. Attends monthly safety meetings.

Additional Standard(s) Specific to Position:

Mid-Year Progress Check – Comments:

Year-End Comments:

Rating

Managing Others (For Positions with Supervisory Responsibilities Only)

Company Standard: Effectively delegates responsibility, establishing clear directions and priorities for employees. Uses performance management process to communicate work standards and to measure and recognize results. Faces up to people problems quickly and directly, is not afraid to take corrective action when necessary.

Additional Standard(s) Specific to Position:

Mid-Year Progress Check – Comments:

Year-End Comments:

Rating

Optional Additional Performance Component

The space below is provided for an optional additional performance component, to be added at the time of the performance planning session, in the event that there is a part of this employee's job that is not sufficiently addressed by the existing set of key performance components. Creating an additional performance component involves these steps:

- Give the component a name and record this name in the appropriate space (below)
- Describe the standard for performance for this component as specifically as possible in the appropriate space (below).
- Continue to use and treat this component in the same manner as the other key performance components (note that all components are weighted equally in the year-end appraisal)

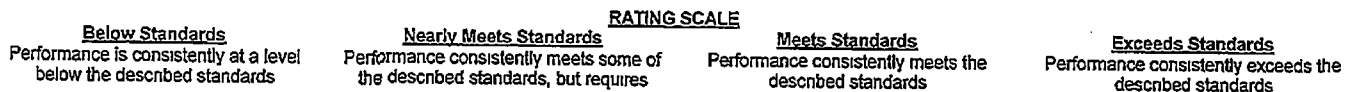
Component Name:

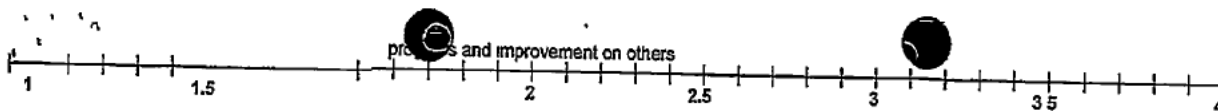
Company Standard:

Mid-Year Progress Check – Comments:

Year-End Comments:

Rating





Part 2: Overall Performance Assessment

Use the table below to enter weights and rating scores from the key performance components, calculate the "weighted rating" by multiplying the weight (expressed as a decimal) times the rating for each component, and then sum all of the weighted ratings to arrive at the overall performance rating. Note that the key performance components used should be equally weighted and total 100%.

For example, if all ten components were utilized each component would be weighted at 10% (or .10)

Then, for example, if the rating for "Judgment and Decisiveness" is 3.5, the calculation for that component would be as follows
 $10 \text{ (weight)} \times 3.5 \text{ (rating)} = 0.35 \text{ (weighted rating)}$

Use the salary increase guidelines to determine the recommended salary increase % based on overall performance rating and position in salary range. There are places for final overall comments, both for the employee and the evaluator, as well as signature spaces for all three sessions (planning, mid-year and final appraisal) below.

Key Performance Components: Performance Rating Calculation

	Weight	X	Rating	=	Weighted Rating
Judgment and Decisiveness			2.7		
Teamwork and Relationships			2.9		
Learning and Initiative			2.9		
Communication			2.9		
Customer Focus (Internal and External)			3.0		
Creativity and Vision			2.5		
Getting Results			3.0		
Workplace and Environmental Safety (if applicable)					
Managing Others (if applicable)					
Additional Optional Component (specify if applicable)					
Total – Overall Performance Rating				100%	2.84

Recommended % Salary Increase
2.5%

<u>Below Standards</u>	<u>Nearly Meets Standards</u>	<u>Meets Standards</u>	<u>Exceeds Standards</u>
1.00 – 1.59	1.60 – 2.59	2.60 – 3.59	3.60 – 4.00

Overall/Additional Evaluator Comments:

Overall/Additional Employee Comments:

Signatures		
Performance Planning Session	Mid-Year Progress Review	Year-End Performance Appraisal
Employee signature and date*	Employee signature and date*	(b) (6), (b) (7)(C) 1/24/12
Evaluator signature and date	Evaluator signature and date	(b) (6), (b) (7)(C) 1/24/12

*Employee signature indicates that this document and the information contained within it has been discussed

Gopher Tampa																																													
Employment Termination Form																																													
Employee's Name	(b) (6), (b) (7)(C)		June 2015 <table border="1"> <thead> <tr> <th>Su</th> <th>Mo</th> <th>Tu</th> <th>We</th> <th>Th</th> <th>Fr</th> <th>Sa</th> </tr> </thead> <tbody> <tr> <td>31</td> <td>1</td> <td>2</td> <td>3</td> <td>4</td> <td>5</td> <td>6</td> </tr> <tr> <td>7</td> <td>8</td> <td>9</td> <td>10</td> <td>11</td> <td>12</td> <td>13</td> </tr> <tr> <td>14</td> <td>15</td> <td>16</td> <td>17</td> <td>18</td> <td>19</td> <td>20</td> </tr> <tr> <td>21</td> <td>22</td> <td>23</td> <td>24</td> <td>25</td> <td>26</td> <td>27</td> </tr> <tr> <td>28</td> <td>29</td> <td>30</td> <td>1</td> <td>2</td> <td>3</td> <td>4</td> </tr> </tbody> </table>	Su	Mo	Tu	We	Th	Fr	Sa	31	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	1	2	3	4
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Department	(b) (6), (b) (7)(C)		Shift: days - B																																										
Last Day of Work?	(b) (6), (b) (7)(C) 2015																																												
Termination Date?	2015																																												
Hire Date?	(b) (6), (b) (7)(C)																																												
Number of hours worked on last day? hrs																																													
Was Termination?	<input type="radio"/> Employee Initiated <input checked="" type="radio"/> Company Initiated																																												
Company Initiated:																																													
Employee was terminated due to:																																													
<input type="checkbox"/> Absents <input type="checkbox"/> Safety Rule violations <input type="checkbox"/> Failed Physical <input type="checkbox"/> Tardys <input type="checkbox"/> General Rule violations <input checked="" type="checkbox"/> Other <input type="checkbox"/> Work Performance <input type="checkbox"/> Blood Probation																																													
Explain Reason or "Other"	Position eliminated and employee chose not to take temporary assignment																																												

Created by (b) (6), (b) (7)(C) 2015 10:00 AM

From: [Manuel, Dallas](#)
To: [Tews, Matthew](#)
Cc: [Pins, Richard](#)
Subject: RE: Gopher Resources Corp., 12-CA-165813, Employer's Position Statement
Date: Wednesday, February 24, 2016 6:50:56 PM

Gentlemen,

Thank you for the courtesy email notice of your online submission of the position statement and its attachments.

However, despite my request for production of the complete Employee Handbook, you have provided only select portions of it. Therefore, by this email, I renew the Region's request for production of the complete document, by uploading it online by or before 12:00 p.m. (noon) tomorrow.

Thanks very much.

Dallas Manuel

Dallas Manuel | Senior Field Attorney

National Labor Relations Board, Region 12

Fifth Third Bank Bldg.

201 E. Kennedy Blvd., Suite #530

Tampa, Florida 33602-5824

voice **813.228.2669**; fax **813.228.2874** | www.nlr.gov



Go Green! Do not print this email unless it's necessary!

E-File:

The NLRB has converted to an electronic file system.

The NLRB strongly encourages all parties to file electronically, through our online E-File system, all substantive documents presented to the Agency; a link to access our E-File system is here:

<https://apps.nlr.gov/eservice/efileterm.aspx>. To file new charges or petitions, use this link: <https://apps.nlr.gov/eservice/efileterm.aspx?app=chargeandpetition>

Upon successful filing, by email, you will receive a confirmation number and notice.

From: Tews, Matthew [mailto:Matthew.Tews@stinson.com]

Sent: Wednesday, February 24, 2016 5:31 PM

To: Manuel, Dallas <Dallas.Manuel@nlrb.gov>

Cc: Pins, Richard <rick.pins@stinson.com>

Subject: Gopher Resources Corp., 12-CA-165813, Employer's Position Statement

Dallas,

Attached is a courtesy copy of Gopher's position statement, filed today, in this matter.

Have a nice evening.

Best,

-Matt

Matthew C. Tews | Attorney | Stinson Leonard Street LLP
150 South Fifth Street, Suite 2300 | Minneapolis, MN 55402
T: 612.335.1520 | F: 612.335.1657
matthew.tews@stinson.com | www.stinson.com

(b) (6), (b) (7)(C) [@stinson.com](mailto:[REDACTED]@stinson.com)

This communication (including any attachments) is from a law firm and may contain confidential and/or privileged information. If it has been sent to you in error, please contact the sender for instructions concerning return or destruction, and do not use or disclose the contents to others.

From: [Tews, Matthew](#)
To: [Manuel, Dallas](#)
Cc: [Pins, Richard](#)
Subject: RE: Gopher Resources Corp., 12-CA-165813, Employer's Handbook
Date: Friday, February 26, 2016 8:51:34 AM

Dallas,

(b) (6), (b) (7)(C) worked in (b) (6), (b) (7)(C) was the face of the company to employees, and described (b) (6), (b) (7)(C) as having responsibilities consistent with the Board's longstanding supervisor definitions. In addition to being a supervisor, (b) (6), (b) (7)(C) is clearly an agent and, we believe, a manager under longstanding Board law. That said, we will ask our client to briefly check to see if there is additional, readily available, written documentation of (b) (6), (b) (7)(C)' self-described supervisory responsibilities.

-Matt

Matthew C. Tews | Attorney | Stinson Leonard Street LLP
150 South Fifth Street, Suite 2300 | Minneapolis, MN 55402
T: 612.335.1520 | F: 612.335.1657
matthew.tews@stinson.com | www.stinson.com

(b) (6), (b) (7)(C)@stinson.com

From: Manuel, Dallas [<mailto:Dallas.Manuel@nlrb.gov>]
Sent: Thursday, February 25, 2016 1:26 PM
To: Tews, Matthew
Cc: Pins, Richard
Subject: RE: Gopher Resources Corp., 12-CA-165813, Employer's Handbook

Thanks very much for your explanation and follow-through with providing the current version of the complete Employee Handbook.

As to your contention that (b) (6), (b) (7)(C), at the time of (b) (6), (b) (7)(C) discharge, was a Section 2(11) statutory supervisor, are there specific records, other than (b) (6), (b) (7)(C) position description and performance evaluations, which support your argument that you wish for the Regional Director to consider?

Dallas Manuel

dallas.manuel@nlrb.gov

Senior Field Attorney
NLRB, Region 12/Tampa
voice 813.228.2669
fax 813.228.2874

From: Tews, Matthew [<mailto:Matthew.Tews@stinson.com>]
Sent: Thursday, February 25, 2016 1:46 PM
To: Manuel, Dallas <Dallas.Manuel@nlrb.gov>
Cc: Pins, Richard <rick.pins@stinson.com>
Subject: Gopher Resources Corp., 12-CA-165813, Employer's Handbook

Dallas,

We had a few technical difficulties with getting the handbook uploaded on the Board's system, so it was filed just after noon your time – we presume that is not a problem. Attached is a courtesy copy. As a bit of background, we did not originally upload the full handbook for 2 reasons: (1) only the few pages originally produced as Exhibit A are relevant to the charge; (2) Gopher is currently in the midst of a total review and update of the handbook; while some of it was updated in January, that review and update won't be completed for several weeks.

Thank you.

-Matt

Matthew C. Tews | Attorney | Stinson Leonard Street LLP
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(b) (6), (b) (7)(C) [@stinson.com](mailto:stinson.com)

This communication (including any attachments) is from a law firm and may contain confidential and/or privileged information. If it has been sent to you in error, please contact the sender for instructions concerning return or destruction, and do not use or disclose the contents to others.

THE LAW OFFICES OF RODERICK O FORD PLLC

220 E. Madison Street, Suite 1205
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(813) 223-1200 * (800) 792-2241 fax
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laboradvocate@fordlawfirm.org

February 26, 2016

VIA FACSIMILE AND
CERTIFIED U.S. MAIL

National Labor Relations Board
ATTN: Margaret J. Diaz, Regional Director
201 E. Kennedy Blvd.
Suite 530
Tampa, Florida 33602

RE: Our Client: (b) (6), (b) (7)(C)
Employer: Gopher Resource Corporation
Case No.: 12-CA-165813
Notice of Request of Re-assignment of Investigator Dallas
Manuel

Dear Ms. Diaz:

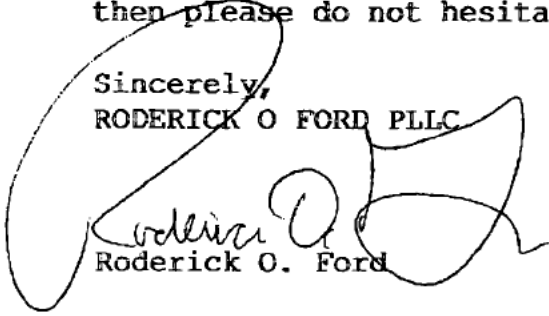
On February 25, 2016, I received a telephone call from NLRB Investigator Dallas Manuel, who requested to a telephone conference with my client, (b) (6), (b) (7)(C).

On today's date, I coordinated this telephone conference for 10:00 a.m. Unfortunately, (b) (6), (b) (7)(C) has no confidence, **based upon** (b) (6), (b) (7)(C) **perception** of the tone and content of Mr. Manuel's voice inflection and follow-up questions, that (b) (6), (b) (7)(C) can get an objective and honest investigation.

In order to preserve (b) (6), (b) (7)(C)' confidence in this investigation, I would appreciate the reassignment of this case to a new investigator.

If you have questions, or if I may be of further assistance,
then please do not hesitate to contact me.

Sincerely,
RODERICK O FORD PLLC



Roderick O. Ford

cc: (b) (6), (b) (7)(C)

To: National Labor Relations Board

From: Roderick O. Ford, Esq.

Fax: 8007922241

Phone: 8132231200

Date: 2/26/2016

Subject: (b) (6), (b) (7)(C) and Gopher Resource Corp.; Case 12-CA-165813

Comments:



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 12
201 E Kennedy Blvd Ste 530
Tampa, FL 33602-5824

Agency Website:
www.nlr.gov
Telephone: (813)228-2641
Fax: (813)228-2874

February 29, 2016

Roderick O. Ford, Esq.
The Law Offices of Roderick O. Ford, PLLC
220 E Madison St. Ste. #1205
Tampa, FL 33602-4827

Re: Gopher Resource Corporation
Case 12-CA-165813

Dear Mr. Ford:

We have carefully investigated and considered your charge that Gopher Resource Corporation has violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

Your charge alleges that since on or about June 11, 2015, and continuing thereafter, Gopher Resource Corporation (the Employer) has discharged the Charging Party for pretextual reasons, in retaliation for (b) (6), (b) (7)(C) refusal to engage in the unlawful surveillance of employees engaged in Union and other protected concerted activities, in violation of Section 8(a)(1) of the Act.

The investigation revealed that the Employer, a recycler of lead-based batteries, employed the Charging Party from about (b) (6), (b) (7)(C), until its discharge of (b) (6), (b) (7)(C) on about (b) (6), (b) (7)(C) 2015.¹ The Employer operates two (2) facilities in Tampa, Florida and Eagan, Minnesota; the Minnesota facility is its corporate headquarters. At the time of (b) (6), (b) (7)(C) discharge, the Charging Party occupied the position of (b) (6), (b) (7)(C) at the Employer's facility located in Tampa, Florida. Historically, until about mid-June, the Employer's personnel separately processed payroll for employees at its respective facilities. Beginning in about August 2014, the Employer began planning for the centralization of its payroll exclusively by personnel in its Minnesota facility. In furtherance of this plan, in about December 2014, the Employer hired a Manager of HR Shared Services to provide input on its centralization of HR and payroll services to all of its employees. The Employer's 2015 report on its projects and initiatives for the year, circulated between managers, by email on February 20, 2015, formalized this restructuring decision and established a time-table for completing this

¹ All dates referenced here are in 2015, unless otherwise specified.

² The parties dispute whether the Charging Party is a supervisor within the meaning of Section 2(11), a manager, or an agent of the Employer within the meaning of Section 2(13) of the Act; the Employer asserts that the Charging Party's duties and authorities justified affirmative determinations for all of these classifications. However, I find it unnecessary to rule on these issues because, even assuming that (b) (6), (b) (7)(C) was protected by the Act, the Charging Party has, nonetheless, failed to present *prima facie* evidence supporting the violation, as alleged.

project by mid-June. As a result of the Employer's planned reorganization, the (b) (6), (b) (7)(C) position occupied by the Charging Party would be eliminated.

The investigation shows that in about March or April, 2015, the Employer became aware that its Tampa employees were engaged in a union organizing effort, which resulted in senior level managers and the Employer's labor counsel holding meetings with employees on about three days. There is evidence that, on about the third day of these meetings, (b) (6), (b) (7)(C) and an unnamed labor attorney met privately with the Charging Party and explained types of conduct that are and are not permitted during union organizing campaigns. There is also evidence that during this meeting, the Employer's representatives asked the Charging Party to mingle with employees so that (b) (6), (b) (7)(C) would be available if they wanted to share information about the union organizing with (b) (6), (b) (7)(C), and that if (b) (6), (b) (7)(C) learned such information (b) (6), (b) (7)(C) should report it to management. The investigation further disclosed that the Charging Party refused to engage in the requested actions because (b) (6), (b) (7)(C) believed it improper and inconsistent with earlier instructions (b) (6), (b) (7)(C) had received from management. The Employer denies that its request to the Charging Party included a request that (b) (6), (b) (7)(C) engage in surveillance of employees' union organizing activities.

The investigation shows that thereafter, on or about May 28, the Employer's (b) (6), (b) (7)(C) notified the Charging Party of the plan to centralize payroll operations at the Minnesota location and eliminate the Charging Party's job, effective on June 12. The (b) (6), (b) (7)(C) informed the Charging Party about the possibility of providing (b) (6), (b) (7)(C) with a severance package and retaining (b) (6), (b) (7)(C) for three months as an independent contractor to facilitate a smooth transition. It appears that on or about June 1, the Charging Party informed the (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) would accept the severance package and offer to work as a contractor. However, at that time, no documents were exchanged or signed.

There is evidence that on or about June 5, 2015, while preparing to pay the Charging Party for (b) (6), (b) (7)(C) accumulated and unused vacation and paid-time-off (PTO), an Employer manager discovered that the Charging Party, who, according to the Employer, entered, edited and approved (b) (6), (b) (7)(C) own overtime permitted to prepare (b) (6), (b) (7)(C) own payroll records, had failed to deduct vacation time for days on which (b) (6), (b) (7)(C) had been on a cruise during the previous week. The investigation revealed evidence that as a result of this discrepancy the Employer conducted a further investigation of the Charging Party's time records, and overtime and leave. The Employer submitted evidence from which it concluded that the Charging Party was paid substantial amounts of overtime pay during weeks when, according to the Employer, the Charging Party did not qualify for overtime pay.

Although the extent of the alleged discrepancies discussed is disputed, it is undisputed that on (b) (6), (b) (7)(C), 2015, the Employer met with the Charging Party and questioned (b) (6), (b) (7)(C) about certain overtime claims. Although the Charging Party denied that (b) (6), (b) (7)(C) engaged in any misconduct, the Employer discharged (b) (6), (b) (7)(C) for alleged time theft, and did not offer (b) (6), (b) (7)(C) a severance package or work as an independent contractor.

The investigation revealed insufficient evidence to show a link between the Charging Party's refusal to engage in surveillance or other requested conduct in connection with

employees' union organizing activities, and the Employer's decisions to eliminate the Charging Party's position or discharge (b) (5), (b) (7). Rather, the evidence shows that the Employer had written plans to eliminate the Charging Party's position before it was aware of any union organizing by its employees. Moreover, it appears that even assuming for the sake of argument that a prima facie case could be established showing that the Employer was motivated not to offer the Charging Party a severance package or work as an independent contractor because (b) (5), (b) (7) refused to engage in surveillance or other activity regarding the union organizing campaign, the Employer could meet its burden of showing that it would have discharged the Charging Party based on its conclusion that (b) (5), (b) (7) engaged in time theft.

Based on the foregoing, there is insufficient evidence to establish that the Employer violated Section 8(a)(1) of the Act, as alleged. Accordingly, I am, therefore, refusing to issue a complaint in this matter.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals. If you appeal, you may use the enclosed Appeal Form, which is also available at www.nlr.gov. However, you are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. Filing an appeal electronically is preferred but not required. The appeal MAY NOT be filed by fax or email. To file an appeal electronically, go to the Agency's website at www.nlr.gov, click on **E-File Documents**, enter the **NLRB Case Number**, and follow the detailed instructions. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

Appeal Due Date: The appeal is due on **March 14, 2016**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than March 13, 2016. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before March 14, 2016**. The request may be filed electronically through the **E-File Documents** link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after March 14, 2016, **even if it is**

postmarked or given to the delivery service before the due date. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,



MARGARET J. DIAZ
Regional Director

Enclosure

cc: Richard W. Pins, Attorney
Stinson Leonard Street, LLP
150 South Fifth Street
Suite 2300
Minneapolis, MN 55402-4223

Matthew C. Tews, Attorney
Stinson Leonard Street, LLP
150 South Fifth Street
Suite 2300
Minneapolis, MN 55402-4223

Gopher Resource Corporation
6505 Jewel Ave
Tampa, FL 33619-2903

(b) (6), (b) (7)(C)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

APPEAL FORM

To: General Counsel
Attn: Office of Appeals
National Labor Relations Board
1015 Half Street SE
Washington, DC 20570-0001

Date:

Please be advised that an appeal is hereby taken to the General Counsel of the National Labor Relations Board from the action of the Regional Director in refusing to issue a complaint on the charge in

Case Name(s).

Case No(s). *(If more than one case number, include all case numbers in which appeal is taken.)*

(Signature)



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 12
201 E Kennedy Blvd Ste 530
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March 2, 2016

Roderick O. Ford, Esquire
The Law Offices of Roderick O. Ford, PLLC
220 E. Madison Street, Suite 1205
Tampa, FL 33602

Transmitted by email to:
laboradvocate@fordlawfirm.org

Re: Gopher Resource Corporation
Case 12-CA-165813

Dear Mr. Ford:

I am in receipt of your letter dated February 26, 2016, requesting, on behalf of your client, Charging Party (b) (6), (b) (7)(C), that the above case be reassigned from Board attorney Dallas Manuel to another Board agent. I was not present in the Regional office on February 26, when your request was received. However, your request was considered that day by the Acting Regional Director, the Regional Attorney and the Assistant to the Regional Director, and they determined that the case should not be reassigned for the following reasons.

Your request for reassignment was based on Mr. Manuel's telephone interview of (b) (6), (b) (7)(C) on the morning of February 26. He had previously interviewed (b) (6), (b) (7)(C) and obtained (b) (6), (b) (7)(C) sworn affidavit in this matter. The February 26 interview was conducted for the purpose of permitting (b) (6), (b) (7)(C) to respond to evidence and information provided by the Charged Party, Gopher Resource Corporation (the Employer). This required that Mr. Manuel confront (b) (6), (b) (7)(C) with the Employer's contention that it discharged (b) (6), (b) (7)(C) because (b) (6), (b) (7)(C) repeatedly (b) (6), (b) (7)(C) and credited (b) (6), (b) (7)(C) with overtime hours that (b) (6), (b) (7)(C) did not work, or which should not have been paid at the overtime rate. In these circumstances, it was Mr. Manuel's job to confront (b) (6), (b) (7)(C) with the Charged Party's assertions, including the details. At times, such inquiries are in the nature of cross-examination, in an effort to get at the truth. Although this kind of questioning can understandably be unpleasant and (b) (6), (b) (7)(C) apparently complained to you about Mr. Manuel's tone, voice inflection and questions, it was concluded that there was no basis for reassigning the case from Mr. Manuel. The Region's managers considered the late stage of the investigation in deciding not to reassign the case. In addition, nothing about Mr. Manuel's handling of the case or (b) (6), (b) (7)(C) concerns as expressed in your letter, gave the Region's managers any reason to believe that Mr. Manuel is biased against (b) (6), (b) (7)(C) or that he conducted himself improperly. I agree with this conclusion.

February 29, 2016

I appreciate your concern and assure you that we strive to perform all of our work with fairness and impartiality.

I trust that this is responsive to your letter.

Very truly yours,

A handwritten signature in black ink that reads "Margaret J. Diaz". The signature is written in a cursive style with a large, stylized "M" and "D".

Margaret J. Diaz
Regional Director